

MINUTES OF THE REGULAR MEETING OF THE
CITY COMMISSION OF THE CITY OF MARSHALL
THURSDAY, OCTOBER 24, 2013
6:30PM

Acting Chairman Zephaniah Timmins called the Regular meeting to order in the Commission Chambers, City Hall at 6:30pm.

PRESENT:

CHAIRMAN: Ed Smith, District 7

COMMISSIONERS:

Gloria Moon, District 1

Zephaniah Timmins, District 2

John Flowers, District 3

Bill Marshall, District 4

Charlie Oliver, District 5

Garrett Boersma, District 6

ADMINISTRATIVE STAFF PRESENT:

Frank Johnson, City Manager

Todd Fitts, City Attorney

Leland Benoit, Interim Police Chief

Reggie Cooper, Assistant Fire Chief

Ardis Wright, Assistant City Manager

Lisa Agnor, City Secretary/Finance Director

J. C. Hughes, Public Works Director

Jack Redmon, Parks Director

ACTING CHAIRMAN TIMMINS PRESENTED THE FOLLOWING AGENDA FOR THE PRE-COMMISSION PUBLIC WORK SESSION:

I. ITEMS LISTED ON THE CITY COMMISSION AGENDA & EMERGENCY ITEMS

There were no emergency items.

II. REQUESTS BY THE CITY COMMISSIONERS FOR ITEMS TO BE PLACED ON A FUTURE AGENDA

There were no requests for items to be placed on a future agenda.

III. CITY MANAGER REPORTS

City Manager Frank Johnson reviewed the agenda packet with the City Staff and City Commission.

IV. ADJOURNMENT

INVOCATION & PLEDGE: Acting Chairman Timmins

Chairman Ed Smith entered the meeting at this point.

382. PRESENTATIONS FROM THE PUBLIC

There were no presentations from the public.

383. ITEMS TO BE WITHDRAWN FROM THE CONSENT AGENDA

There were no items to be withdrawn from the consent agenda.

384. CONSENT AGENDA

Commissioner Marshall moved to approve the Consent Agenda. Commissioner Timmins seconded the motion which passed 7:0.

A. Consider Approval of the minutes from the October 15, 2013 Special-Called Meeting.

B. Report on Oak Lawn Municipal Golf Course for the third quarter of 2013.

PUBLIC HEARINGS AND ORDINANCES:

385. A REQUEST FOR A SPECIAL PERMIT ON 5.312 ACRES OF LAND, BEING LOTS 1-4, 5, 6, 7, OF THE SOUTH HIGHLANDS ADDITION, AND OL 257C OF THE SW, FOR AN ARCADE

Location: 116 W. Pinecrest Dr.
Applicant: Tina Livingston

This agenda item was withdrawn.

386. A REQUEST TO REZONE 0.373 ACRES OF LAND AND BEING ALL OF LOT 19, BLOCK 5, OF THE CEDAR CREST ADDITION FROM R-2 SINGLE FAMILY DETACHED DWELLING DISTRICT TO C-2 RETAIL BUSINESS DISTRICT.

Location: 203 Crestwood
Applicant: Clay Allen

This agenda item was withdrawn at the request of the applicant.

387. REPORT ON NEPOTISM LAWS, REQUIREMENTS, AND POLICIES

This agenda item was taken out of order.

Frank Johnson, City Manager, reported on the nepotism policies contained in the Employee Handbook.

The Commission engaged in discussion regarding this agenda item.

RESOLUTION:

388. CONSIDER APPROVAL OF A RESOLUTION ESTABLISHING A NEPOTISM POLICY FOR THE MARSHALL CITY COMMISSION.

This agenda item was taken out of order.

Commissioner Timmins asked for approval of a Resolution establishing a Nepotism Policy for the Marshall City Commission.

Todd Fitts, City Attorney, stated the City Charter addresses this issue.

The Commission engaged in discussion regarding this agenda item.

No motion was made regarding this agenda item.

389. CONSIDER APPROVAL OF AN AGREEMENT WITH THE WEISMAN CENTER COOPERATIVE FOR SPACE IN THE WEISMAN BUILDING.

Frank Johnson asked for approval of an agreement with the Weisman Center Cooperative for space in the Weisman Building.

Mr. Johnson reviewed changes made to the agreements with the Weisman Center Cooperative and Central Perks, LLC.

The Commission engaged in discussion regarding this item.

Commissioner Marshall moved to approve the agreement with the Weisman Center Cooperative for space in the Weisman Building. Commissioner Moon seconded the motion, which passed 7:0.

390. CONSIDER APPROVAL OF AN AGREEMENT WITH CENTRAL PERKS, LLC FOR SPACE IN THE WEISMAN BUILDING.

Frank Johnson asked for approval of an agreement with Central Perks, LLC for space in the Weisman Building.

Commissioner Marshall moved to approve the agreement with Central Perks, LLC for space in the Weisman Building. Commissioner Moon seconded the motion, which passed 7:0.

391. CONSIDER APPROVAL OF AN AGREEMENT WITH FLOWERS & ASSOCIATES ARCHITECTS, INC. FOR ARCHITECTURAL SERVICES FOR MEMORIAL CITY HALL PHASE I IN THE AMOUNT OF \$12,200.00.

City Commissioners asked questions of Todd Fitts, City Attorney. Dean Searle, Acting City Attorney regarding this agreement, addressed questions regarding the agreement with Flowers & Associates Architects, Inc.

The Commission engaged in discussion regarding this item.

Commissioner Boersma moved to approve an agreement with Flowers & Associates Architects, Inc. for architectural services for Memorial City Hall Phase I in the amount of \$12,200.00. Commissioner Marshall seconded the motion. The motion failed for lack of majority with the following vote:

**Ayes 3: Commissioners Boersma, Marshall, and Smith
Nays 3: Commissioners Moon, Oliver, and Timmins
Abstain 1: Commissioner Flowers**

392. CONSIDER APPROVAL OF AN AGREEMENT WITH GREAT DESTINATION STRATEGIES TO CONDUCT A REVIEW OF AND PROVIDE RECOMMENDATIONS ON UPDATES TO THE BRANDING, DEVELOPMENT & MARKETING ACTION PLAN, ALSO KNOWN AS THE TOURISM PLAN.

Frank Johnson asked for approval of an agreement with Great Destination Strategies to conduct a review of and provide recommendations on updates to the Branding, Development & Marketing Action Plan, also known as the Tourism Plan.

Mr. Johnson stated the fee for the agreement with Great Destination Strategies for the review is \$12,000.

Commissioner Boersma moved to approve an agreement with Great Destination Strategies to conduct a review of and provide recommendations on updates to the Branding, Development & Marketing Action Plan, also known as the Tourism Plan. Commissioner Marshall seconded the motion, which passed 7:0.

393. CONSIDER ACCEPTING PROPOSALS AND AWARDING BIDS FOR OUTDOOR WARNING SIRENS.

Ardis Wright, Assistant City Manager, asked for the Commission to award bids submitted from Mobile Communications of Tyler for \$102,750.00 to provide three electromechanical outdoor warning sirens with 65' poles and installation and from Advantis, LLC of Marshall for \$22,000.00 to provide the radio control systems for the three electromechanical outdoor warning sirens.

The Commission engaged in discussion regarding this agenda item.

Commissioner Flowers moved to reject all bids and discuss how to move forward with these electromechanical outdoor warning sirens. Commissioner Marshall seconded the motion.

The Commission engaged in discussion and asked questions of City Staff regarding this agenda item.

The motion passed with a vote of 7:0.

394. CONSIDER AND ACT ON A REQUEST TO APPROVE A SERVICE CONTRACT TO PERFORM A STREET LIGHT INVENTORY AND BILLING AUDIT.

J.C. Hughes, Public Works Director, asked for approval of a service contract, with US Energy Audit of Longview, to perform a street light inventory and billing audit.

The Commission engaged in discussion regarding this agenda item.

Commissioner Marshall moved to approve a service contract with US Energy Audit, to perform a street light inventory and billing audit. Commissioner Oliver seconded the motion, which by a vote of 6:0:1, with Commissioner Flowers abstaining.

Commissioner Moon moved to postpone the remaining agenda items with exception of the Executive Session. Commissioner Oliver seconded the motion. The motion failed for lack of majority with the following vote:

**Ayes 3: Commissioners Moon, Oliver, and Timmins
Nays 3: Commissioners Boersma, Marshall, and Smith
Abstain 1: Commissioner Flowers**

395. REPORT ON THE LIBRARY ENDOWMENT FUND AND OTHER LIBRARY FUNDS

The Commission asked questions of the City Staff regarding the Library Endowment Fund and other Library Funds.

396. REPORT ON THE RETURN ON INVESTMENT EARNED BY OTHER CITIES

Frank Johnson presented a report on the return of investment earned by other cities.

The Commission asked questions of the City Staff regarding this agenda item.

397. REPORT ON NEEDED APPOINTMENTS TO VARIOUS CITY BOARDS, COMMISSIONS, AND COMMITTEES.

Frank Johnson stated that the report on needed appointments to various City Boards, Commissions, and Committees has been presented.

398. REPORT ON PROJECTED YEAR-END REVENUES AND EXPENDITURES FOR THE GENERAL FUND AND THE UTILITY FUND FOR THE 2013 FISCAL YEAR

Frank Johnson presented a report on projected year-end revenues and expenditures for the General Fund and the Utility Fund for the 2013 Fiscal Year.

The Commission asked questions of the City Staff regarding this agenda item.

399. REPORT ON AND DISCUSSION OF MAINTENANCE, REPAIR, AND REPLACEMENT NEEDS FOR VARIOUS EQUIPMENT AND BUILDINGS

Commissioner Boersma asked for a report on and discussion of maintenance, repair, and replacement needs for various equipment and buildings.

Commissioner Boersma stated Mr. Johnson and staff are working on reports concerning short-term and long-term needs for maintenance, repair, and replacement of various equipment and buildings.

400. MONTHLY FINANCIAL REPORT

The Commission presented no questions regarding this agenda item.

401. CODE ENFORCEMENT REPORT.

Bo Ellis presented the Code Enforcement Report.

RESOLUTION:

402. CONSIDER APPROVAL OF A RESOLUTION DECLARING A FINANCIAL EXIGENCY BY THE MARSHALL CITY COMMISSION

Commissioner Timmins moved to approve a Resolution declaring a financial exigency by the Marshall City Commission. Commissioner Oliver seconded the motion, which failed with the following vote:

Ayes 3: Commissioners Timmins, Moon, and Oliver

Nays 4: Commissioners Marshall, Flowers, Boersma, and Smith

403. CONSIDERATION OF ITEMS WITHDRAWN FROM THE CONSENT AGENDA

There were no items withdrawn from the Consent Agenda.

404. REQUESTS FROM COMMISSIONERS FOR ITEMS TO BE PLACED ON FUTURE AGENDAS

- Report on how to proceed with architectural services and other matters related to the Memorial City Hall Project
- Request for Proposals to provide additional Outdoor Emergency Warning Sirens in the City of Marshall
- Report regarding the status of the South Marshall Recreation Association property
- Report on the status of the Community Block Grant Housing Rehabilitation Program
- Report regarding the status of the effort to demolish dilapidated structures

EXECUTIVE SESSION:

405. PURSUANT TO OPEN MEETINGS ACT, CHAPTER 551, TEXAS GOVERNMENT CODE, SECTION 551.071 – CONSULTATION WITH ATTORNEY – CONVENE IN EXECUTIVE SESSION TO DISCUSS MATTERS RELATED TO PENDING OR CONTEMPLATED LITIGATION.

Commissioner Marshall moved to enter into Executive Session. Commissioner Boersma seconded the motion which passed 6:0:1 with Commissioner Moon abstaining. (The time was 9:09)

- A. Discussion of response to the Texas Municipal League Intergovernmental Risk Pool regarding a pending claim.
- B. Discussion of settlement negotiations regarding construction of the new Police Station.

Commissioner Timmins moved to reconvene from Executive Session. Commissioner Oliver seconded the motion which passed 7:0. (The time was 9:45)

406. CONSIDER AUTHORIZING THE CITY MANAGER TO AUTHORIZE THE TEXAS MUNICIPAL LEAGUE INTERGOVERNMENTAL RISK POOL TO SETTLE A PENDING CLAIM IN COMPLIANCE WITH THE TERMS DISCUSSED BY THE CITY COMMISSION.

Commissioner Smith moved to authorize the City Manager to authorize the Texas Municipal League Intergovernmental Risk Pool to settle a pending claim in compliance with the terms discussed by the City Commission. Commissioner Timmins seconded the motion, which passed 7:0.

407. CONSIDER AUTHORIZING THE CITY MANAGER TO ENTER INTO A SETTLEMENT WITH HAND CONSTRUCTION IN KEEPING WITH THE TERMS DISCUSSED BY THE CITY COMMISSION

Commissioner Smith moved to authorize the City Attorney to enter into a settlement with Hand Construction in keeping with the terms discussed by the City Commission. Commissioner Timmins seconded the motion, which passed with the following vote:

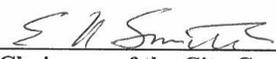
Ayes 6: Commissioners Smith, Timmins, Moon, Marshall, Boersma,
and Oliver

Nay 1: Commissioner Flowers.

408. ADJOURNMENT

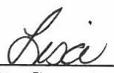
Commissioner Timmins moved to adjourn. Commissioner Flowers seconded the motion, which passed 7:0

APPROVED:



Chairman of the City Commission
of the City of Marshall, Texas

ATTEST:



City Secretary