

MINUTES OF THE REGULAR MEETING OF THE
CITY COMMISSION OF THE CITY OF MARSHALL
THURSDAY, FEBRUARY 27, 2014
6:00PM

Chairman Ed Smith called the Regular meeting to order in the Commission Chambers, City Hall at 6:00pm.

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:

Kenneth Snyder, Acting City Manager

Dean Searle, Acting City Attorney

Reggie Cooper, Interim Fire Chief

Leland Benoit, Interim Police Chief

Lisa Agnor, City Secretary/Finance Director

J. C. Hughes, Public Services Director

Jack Redmon, Support Services Director

INVOCATION & PLEDGE: Commissioner Boersma

62. PRESENTATIONS FROM THE PUBLIC

Lillian Banks, 408 Melton Street, requested assistance from the Block Grant Committee on behalf of the New Town Neighborhood Association in the amount of \$1,000.00 to be used for upkeep of the Community Garden.

Leo Morris, 4500 Victory Drive #45, expressed concerns regarding the demolition of homes, the status of the Memorial City Hall Project, and the recommendations of the Efficiency Study.

63. ITEMS TO BE WITHDRAWN FROM THE CONSENT AGENDA

Item 4B, consider approval of a contract with the Harrison County Elections Administrator for the May 10, 2014 General Election, was withdrawn from the Consent Agenda.

64. CONSENT AGENDA

Commissioner Timmins moved to approve the Consent Agenda with the understanding that Item 4B has been withdrawn. Commissioner Moon seconded the motion which passed with a vote of 7:0.

A. Consider approval of the minutes from the February 13, 2014 Regular Meeting.

C. Presentation of and acknowledgement of receipt of the 2013 Racial Profiling Report for the Marshall Police Department by the Interim Chief of Police.

D. Presentation of certification of verification of Local Option Liquor Petition.

PUBLIC HEARING AND ORDINANCE APPROVAL:

65. REQUEST TO REZONE PART OF OUTLOT 252-A, ALL OF OUTLOT 252-B, AND 252-C SOUTHWEST, FROM R-2 SINGLE FAMILY DETACHED DWELLING DISTRICT TO R-7 DUPLEX DISTRICT.

Location: 103, 105 W. Emory and 1502 Elsie
Applicant: CodyCo Investments, LLC (Vinod Patel)

Kenneth Snyder, Acting City Manager, stated the request to rezone part of Outlot 252-A, all of Outlot 252-B, and 252-C Southwest, from R-2 Single Family Detached Dwelling District to R-7 Duplex District was reviewed by the Planning and Zoning Commission and denied by a vote of 4:0:1.

Chairman Smith opened the Public Hearing regarding the request and called on anyone wishing to speak in favor of the request.

No one came forward to speak in favor of the request.

Chairman Smith called on anyone wishing to speak in opposition of the request.

No one came forward to speak in opposition of the request.

Chairman Smith closed the Public Hearing.

J.C. Hughes, Public Services Director, answered questions from the Commission regarding this request.

Commissioner Marshall moved to deny the request to rezone part of Outlot 252-A, all of Outlot 252-B, and 252-C Southwest, from R-2 Single Family Detached Dwelling District to R-7 Duplex District. Commissioner Timmins seconded the motion which passed with a vote of 7:0.

ORDINANCE:

66. O-14-02: CONSIDER APPROVAL OF AN ORDINANCE ORDERING A SPECIAL ELECTION ON LOCAL OPTION ELECTION FOR THE LEGAL SALE OF MIXED BEVERAGES IN RESTAURANTS BY FOOD AND BEVERAGE HOLDERS ONLY.

Lisa Agnor, City Secretary/Finance Director, requested approval of an Ordinance ordering a Special Election on Local Option Election for the Legal Sale of Mixed Beverages in Restaurants by Food and Beverage Holders Only based upon the Certification of Verification of Local Option Liquor Petition presented and approved under the Consent Agenda. The Petition was filed with the City Secretary on January 24, 2014. (copy attached to these minutes.)

Commissioner Marshall moved to approve an Ordinance ordering a Special Election on Local Option Election for the Legal Sale of Mixed Beverages in Restaurants by Food and Beverage Holders Only.

Lisa Agnor answered questions of Commissioner Flowers regarding this agenda item.

Commissioner Timmins seconded the motion to which passed with a vote of 7:0.

**CITY MANAGER REPORTS AND REQUESTS FOR CITY
COMMISSION CONSIDERATION:**

67. PRESENTATION OF RECOMMENDATION FROM THE COMMUNITY DEVELOPMENT ADVISORY COMMITTEE FOR THE BUDGET FOR 2014 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS.

Mrs. Charles Wilson presented the recommendation from the Community Development Advisory Committee for the Budget for 2014 Community Development Block Grant Funds.

Frank Johnson, CDBG Consultant, addressed questions from the Commissioners regarding the 2014 Budget for the Community Development Block Grant Funds.

68. CONSIDER AND ACT ON A RECOMMENDATION TO APPROVE AN EXTENSION OF THE SHORT-TERM TREATED WATER SUPPLY CONTRACT WITH NORIT AMERICAS, INC., FOR A PERIOD COMMENCING MARCH 1, 2014 AND TERMINATING NO LATER THAN MARCH 31, 2014, WITH THE CURRENT WATER RATE STRUCTURE.

J.C. Hughes stated that the current Water Supply Contract extension with Norit Americas, Inc. expires February 28, 2014 and asked for approval of an extension of the Short-Term Treated Water Supply Contract with Norit Americas, Inc., for a period commencing March 1, 2014 and terminating no later than March 31, 2014, with the current water rate structure.

Commissioner Timmins moved to approve an extension of the Short-Term Treated Water Supply Contract with Norit Americas, Inc., for a period commencing March 1, 2014 and terminating no later than March 31, 2014, with the current water rate structure. Commissioner Moon seconded the motion.

The Commission asked questions of Mr. Hughes regarding this agenda item.

The motion passed with a vote of 6:0:1, with Commissioner Oliver abstaining.

69. CONSIDER AND ACT ON ESTABLISHMENT OF A POLICY RELATED TO QUALIFICATION AND INSTALLATION OF SPEED BUMPS.

J.C. Hughes asked the Commission to consider and act on establishment of a policy related to qualification and installation of Speed Bumps.

The Commission asked questions of Mr. Hughes regarding the request.

Commissioner Marshall moved to approve the policy presented relating to qualification and installation of Speed Bumps. Commissioner Boersma seconded the motion.

The Commission engaged in discussion regarding this agenda item.

The motion passed with the following vote:

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

Nays 1: Commissioner Flowers

70. CONSIDER AND RESPOND TO A REQUEST BY COMMISSIONER BILL MARSHALL TO CONSIDER ENFORCING OUR EXISTING CITY ORDINANCE WHICH REQUIRES MANDATORY CONNECTION TO READILY AVAILABLE SEWER SERVICE, UPDATE OUR CODE OF ORDINANCES TO REQUIRE MANDATORY CONNECTION TO READILY AVAILABLE WATER SERVICE, AND UPDATE OUR CODE OF ORDINANCES TO SPECIFY PENALTY FOR NON-COMPLIANCE.

Commissioner Marshall asked to postpone this agenda Item 7D until after Item 7F. The Commission agreed to postpone this agenda Item 7D until after Item 7F.

71. CONSIDER AND RESPOND TO A REPORT OF THE EARTHY SMELLING AND TASTING WATER DUE TO COLD WATER AND ALGAE.

J. C. Hughes gave a report on the earthy smelling and tasting water due to cold water and algae.

Nancy Pasel, Treatment Superintendent, answered questions from Commissioner Marshall.

72. CONSIDER AND RESPOND TO A REPORT OF WATER LEAK AND SEWER BACKUP MAPPING DETAILS IN THE CITY OF MARSHALL.

J. C. Hughes presented a report of water leak and sewer backup mapping details in the City of Marshall and answered questions from the Commission.

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This agenda item was taken out of order.

Commissioner Marshall asked the Commission how they wanted to address this area of noncompliance.

The Commissioners engaged in discussion regarding this agenda item.

74. DISCUSSION OF AND CONSIDERATION OF FUNDING FOR THE MARSHALL CONVENTION AND VISITOR BUREAU.

Kenneth Snyder reported on the ongoing discussion with the Marshall Convention and Visitor Bureau (CVB) regarding funding and operation of CVB going forward, and asked for a Special-Called Meeting on March 6, 2014.

Commissioner Marshall moved to continue funding at the existing level for CVB through March 6, 2014. Commissioner Oliver seconded the motion which passed with a vote of 7:0.

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and Oliver**

Nays 1: Commissioner Flowers

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Commissioner Marshall moved to continue funding at the existing level for CVB through March 6, 2014. Commissioner Oliver seconded the motion which passed with a vote of 7:0.

75. DISCUSSION OF AND CONSIDERATION OF A POSSIBLE AMENDMENT TO THE CITY EMPLOYEE HANDBOOK REGARDING NON-DISCIPLINARY SEPARATION PAY FOR EMPLOYEES WHO ARE SEPARATED FROM EMPLOYMENT DUE TO A REDUCTION IN THE CITY'S WORKFORCE.

Commissioner Timmins asked for Acting City Attorney Dean Searle to review the proposed amendment to the City Employee Handbook.

Mr. Searle reviewed the proposed amendment to the City Employee Handbook regarding non-disciplinary separation pay for employees who are separated from employment due to a reduction in the City's workforce.

The Commission engaged in discussion regarding this agenda item.

Commissioner Timmins moved to authorize the City Attorney to take this Non-Disciplinary Separation Guideline and bring back to the Commission something to accept or deny. Commissioner Oliver seconded the motion.

The Commission asked for clarification of understanding from Mr. Searle. Mr. Searle stated he understood there should be a two week notification with a severance at the end of the two weeks. The Commission engaged in discussion regarding this agenda item.

Chairman Smith called for the vote.

The motion failed with the following vote:

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

The motion failed due to lack of a majority vote.

Chairman Smith recommended the agenda item be discussed at a future meeting of the Commission.

76. DISCUSSION OF AWARDED PAY INCREASES TO CITY EMPLOYEES BY THE END OF JUNE 2014 IF FUNDS ARE AVAILABLE TO DO SO.

The Commission agreed to review the City's financial status as of June 30 to determine if pay increases would be possible.

77. CODE ENFORCEMENT REPORT

Jack Redmon, Director of Support Services, presented the Code Enforcement Report.

78. CONSIDERATION OF ITEMS WITHDRAWN FROM THE CONSENT AGENDA

Item 4B, consider approval of a contract with the Harrison County Elections Administrator for the May 10, 2014 General Election, was withdrawn from the Consent Agenda and will be considered at a future City Commission Meeting.

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

- Report in reference to how effective City Staff are with added responsibilities and positions
- Request for City Staff to set a date for review of the Efficiency Study
- Report on use of CDBG Admin Funds by other cities
- Report to address possible use of CDBG funds for Water/Sewer Connections
- Report regarding costs of a Non-Disciplinary Separation Severance for the City of Marshall.

EXECUTIVE SESSION:

80. EXECUTIVE SESSION:

- A. Pursuant to the Open Meetings Act, Chapter 551, Texas Government Code, Section 551.071 – Consultation with Attorney to discuss matters related to pending or contemplated litigation regarding the previous architectural design contract for Memorial City Hall.
- B. Pursuant to the Open Meetings Act, Chapter 551, Texas Government Code, Section 551.074 (Personnel) – Convene in Executive Session to discuss appointment of an Interim Fire Chief.
- C. Executive Session pursuant to the Open Meetings Act, Section 551.071 of the Texas Government Code – Consultation with Attorney on a matter in which the duty of the Attorney to the Governmental Body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter.
 1. Discussion regarding issues related to contracts between Norit Americas, Inc., Harrison County, and the City of Marshall.

Commissioner Timmins moved to enter into the Executive Session. Commissioner Moon seconded the motion which passed with a vote of 7:0. The time was 8:09 pm.

Commissioner Timmins moved to reconvene from the Executive Session. Commissioner Boersma seconded the motion which passed with a vote of 7:0. The time was 8:58 pm.

ACTION ITEMS FOLLOWING EXECUTIVE SESSION:

Kenneth Snyder asked that Item 11B be taken out of order.

81. CONSENT TO ACTING CITY MANAGER'S APPOINTMENT OF AN INTERIM FIRE CHIEF.

Commissioner Oliver moved to accept the Acting City Manager's appointment of Reggie Cooper as Interim Fire Chief. Commissioner Moon seconded the motion which passed with a vote of 7:0.

82. CONSIDER AUTHORIZING ACTION REGARDING THE PREVIOUS ARCHITECTURAL DESIGN CONTRACT FOR MEMORIAL CITY HALL.

Commissioner Moon moved to authorize the City Attorney to investigate and if appropriate begin litigation concerning the contract with Howard Performance Architecture that would include the instruments of service the City requested be delivered and the amount of fees that have been paid by the City and whether or not those fees were appropriate. Commissioner Boersma seconded the motion which passed with a vote of 6:0:1 with Commissioner Flowers abstaining.

83. CONSIDER AUTHORIZING ACTION REGARDING THE CONTRACTS BETWEEN NORIT AMERICAS, INC., HARRISON COUNTY, AND THE CITY OF MARSHALL.

Chairman Smith stated he understood that the Acting City Attorney and Staff would go forward with the scheduled meeting regarding the Contracts between Norit Americas, Inc., Harrison County, and the City of Marshall.

Commissioner Timmins moved to fund Norit Americas, Inc., Water By-Pass Project and release all parties of any future financial obligation upon payment and completion by the entities involved. Commissioner Oliver seconded the motion.

The Commission engaged in discussion regarding this agenda item.

Commissioner Timmins struck the current motion and moved to fund Norit Americas, Inc., Water By-Pass Project. Commissioner Oliver seconded this motion.

The Commission engaged in discussion regarding this agenda item.

Commissioner Timmins requested to withdraw the motion.

The Commission engaged in discussion regarding this agenda item.

Chairman Smith moved to allow legal counsel to go forward with the meetings and then review the results of the meetings. Commissioner Boersma seconded motion.

Commissioner Marshall requested to amend the motion to add that the meetings are held within the next 30 days. Chairman Smith and Commissioner Boersma agreed to the amendment to the motion.

The motion passed with the following vote:

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

Nays 1: Commissioner Timmins

84. ADJOURNMENT

Commissioner Moon moved to adjourn the meeting. Commissioner Boersma seconded the motion which passed with a vote of 7:0.

APPROVED:



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

ATTEST:



City Secretary

Ordinance: O-14-02