

**MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF BAYTOWN**

August 13, 2009

The City Council of the City of Baytown, Texas, met in a Regular Meeting on Thursday, August 13, 2009, at 6:30 P.M. in the Council Chamber of the Baytown City Hall, 2401 Market Street, Baytown, Texas with the following in attendance:

Lena Yopez	Council Member
Lynn Caskey	Council Member
Brandon Capetillo	Council Member
Terry Sain	Council Member
David McCartney	Council Member
Scott Sheley	Council Member
Stephen H. DonCarlos	Mayor
Garrison C. Brumback	City Manager
Bob Leiper	Deputy City Manager
Kevin Troller	Assistant City Manager
Ignacio Ramirez	City Attorney
Leticia Garza	Interim City Clerk

Mayor DonCarlos convened the August 13, 2009, Regular Meeting with a quorum present at 6:30 P.M.

Pledge of Allegiance, Texas Pledge and Invocation was led by Council Member Sain.

1. MINUTES

a. Approve Minutes of the City Council Work Session and Regular Meeting held on July 23, 2009.

Motion was made by Council Member Capetillo, seconded by Council Member Yopez approving the minutes from the July 23, 2009, City Council Work Session and Regular Meeting. The vote was as follows:

Ayes: Council Members: Yopez, Caskey, Sain, McCartney,
Sheley and Mayor DonCarlos

Nays: None

Abstention: Council Member Brandon Capetillo

The motion carried.

2. RECOGNITIONS AND CITIZENS COMMUNICATIONS**a. Texas House Representative Wayne Smith - City Management.**

City Manager Garry Brumback presented the agenda item.

Received and recognized Texas House Representative Wayne Smith, District 128 for his support and assistance to the City of Baytown during the 81st Texas Legislative Session.

Texas House Representative Wayne Smith thanked the City of Baytown for putting together an agenda of requests to present to the legislature. This agenda made it easier process.

Mayor DonCarlos presented Representative Smith with a plaque on behalf of the City for his support.

b. Parks and Recreation Department Annual Report - Parks and Recreation.

City Manager Garry Brumback presented the agenda item.

Ordinance No. 885 states that the Parks and Recreation Advisory Board shall make an Annual Report to the City Council. Wayne Gray, Chairman of the Parks and Recreation Advisory Board, will present the Annual Report.

Mr. Gray presented the annual report. He challenged the Council and the audience to visit a park once a week. By visiting one park a week you would learn something different and see all of the parks in Baytown. He commended the success of the Bark Park and the Kennel Club for working on small issues. Mayor DonCarlos thanked the Advisory Board and Parks for their collective efforts in improving the quality of life in Baytown. The Advisory Board approved the report at the August 05, 2009 meeting.

Scott Johnson, Parks Director will answer any questions the Mayor and Council members have. Mayor DonCarlos inquired about the justification of working on Baker Rd. for period of time. Mr. Johnson stated that due to the signalization project that is starting on Alexander, some median work is needed so the Parks Dept. surmised the area where they are going to trench for that project and the Citizens Bond Advisory Committee requested them to move to other end of Baker. Mayor DonCarlos requested to begin working on the beautification of Alexander as soon as possible.

c. Baytown Summer Track Team - Parks and Recreation.

City Manager Garry Brumback presented the agenda item.

Mr. Brumback recognized the Baytown Summer Track Team members and coaches.

Youth Summer Track Program was very successful again this summer. The program, coached by Mark Crooms and Shontele Williams is open to boys and girls ages 8 to 18. The youth practiced 4 times a week at Goose Creek Memorial Stadium and participated in weekly circuit track meets at several surrounding communities. The team hosted two local track meets at Goose Creek Memorial Stadium this summer with all 12 teams from the region attending.

All the participants competed in the local Hershey Track Regional Meet and the Texas Amateur Athletic Federation (TAAF) Regional Meet. This year the team qualified 72 participants at the TAAF Regional Meet to go on to the State Games of Texas meet in San Antonio. Ten participants also qualified to go to the Hershey National Track Meet held in Hershey, Pennsylvania.

At the 2009 TAAF Games of Texas in San Antonio, Texas our team came home with 2 gold medals, 10 silver medals and 2 bronze medals.

At the 2009 Hershey National Track Meet, the 10 member team brought home two 4th place, one 5th place and one 6th place award. Of the 38 members of the Texas Team that attended the Hershey National Track Meet, 10 were from our team. The summer youth track program has grown from 8 members 7 years ago to 138 members this summer.

d. Citizen Communication: Debbie Griffin.

Ms. Debbie Griffin requested to speak before Council regarding the red light camera program and litter from fast food establishments.

Ms. Griffin's request to address Council was received in the City Clerk's Office on July 27, 2009. A letter notifying Ms. Griffin of her placement on the August 13, 2009 City Council agenda was sent via ground mail on July 27, 2009; both items are attached for your review.

Ms. Griffin indicated that the red light camera program has improved her driving habits and is impressed with the median beautification on W. Baker. Ms. Griffin requests that individuals be responsible for controlling the litter from their perspective areas.

e. Citizen Communication: K.M. Williamson.

Mr. K. M. Williamson requested to speak before Council regarding the collection of bicycles for children this Christmas.

Mr. Williamson's request to address Council was received by the City Clerk's Office on July 23, 2009. The application and letter to appear before Council is attached to this agenda item.

About three years ago, Mr. Williamson started the project Santa Claus at Pelican Junction, which collects bicycles and distributes them to children for Christmas. He has a gentleman with about 125-150 bicycles ready to go. He wanted to get the information out to the citizens of the City and asked if the City of Baytown's Police Department would donate the bicycles from the auction of 20" or smaller to this project. He will be storing the bicycles at a facility on Bayway behind El Toro. The bicycles can be dropped off at Mr. Williamson home, Lindsey's Garage or the facility on Bayway. Mr. Brumback will check into the donating of the bicycles from the Police Department.

f. Recycled Art Class Presentation - City Management.

City Manager Garry Brumback presented the agenda item.

Mr. Sheley presented the Council with the Baytown Art League's Recycled Art Class. He ran a class this summer with a focus on Art with recycled material. The President of the Art Center commented on the improvements of the center and the summer program. There were 40 students directed by Susan Urban. Mr. Sheley, who donated his time, worked with a group of 1-3 graders. They developed a green Texas Avenue with the inclusion of the old Oak Tree. Mr. Sheley thanked all who were involved in the success of the program. On August 23 and 24 there will be highlights of these children on Channel 39 the Houston Green Show with Yolanda Green.

Agenda Item 4.e. was presented at this time.

3. PUBLIC HEARINGS

a. Public Hearing for Baytown Crime Control and Prevention District FY 2009-10 Budget - City Management.

The public hearing was called to order by Mayor DonCarlos at 7:27 P.M.

Mayor DonCarlos conducted a public hearing regarding the fiscal year 2009-2010 budget adopted by the Board of Directors of the Baytown Crime Control and Prevention District (CCPD) and submitted to the City Council. The CCPD Board adopted the budget on July 14, 2009, and forwarded it to City Council on July 23, 2009.

As set forth in State law, (LGC 344.205(a)), the local governing body must hold a public hearing on the budget adopted by the Board. Notice of the Public Hearing was published in The Baytown Sun on Thursday, July 30, 2009, and posted to the City's web site on Thursday, July 30, 2009.

City Manager Garry Brumback summarized the agenda item. This budget is dedicated primarily to the personnel of the police department for the safety of the citizens. He indicated that the proposed budget revenues are little over (1) million dollars and the expenditures a little under (1) million.

Roy Tims registered to address the Council in regards to item 3.a but did not speak.

There being no one desiring to speak Mayor DonCarlos closed the public hearing at 7:30 P.M.

b. Public Hearing for Baytown Fire Control, Prevention, and EMS District FY 2009-10 Budget - City Management.

Mayor DonCarlos presented the agenda item.

The public hearing was called to order by Mayor DonCarlos at 7:30 P.M.

Mayor DonCarlos conducted a public hearing regarding the fiscal year 2009-2010 budget adopted by the Board of Directors of the Baytown Fire Control, Prevention, and EMS District (FCPEMSD) and submitted to the City Council. The FCPEMSD Board adopted the budget on July 21, 2009, and forwarded it to City Council on July 23, 2008.

As set forth in State law, (LGC 344.205(a)), the local governing body must hold a public hearing on the budget adopted by the Board. Notice of the Public Hearing was published in The Baytown Sun on Thursday, July 30, 2009, and posted to the City of Baytown web site on Thursday, July 30, 2009.

City Manager Garry Brumback summarized the agenda item. This budget is dedicated primarily to capital purchases to support the fire department. This is accumulating funds for the fire training fields. Mr. Leiper indicated that the funds had to be reallocated from the past two years to clean up. The Fire Training Facility is going through the master plan stage and hopefully will start some infrastructure next week. Mr. Brumback will put in the report of the other fire department news.

There being no one registered to speak Mayor DonCarlos closed the public hearing at 7:33 P.M.

4. PROPOSED ORDINANCES

a. Litter / Donation Box Ordinance - Health and EMS.

City Manager, Garry Brumback presented the agenda item.

The proposed Ordinance established standards for dumpsters, litter abatement in parking lots and regulating unmanned donation collection bins. These standards include requiring commercial establishments to provide and maintain waste receptacles outside their facilities and in the parking lots of their establishments based on the number of parking spaces; clarifies that all dumpsters must be screened from view and that all dumpsters have lids and doors properly fitted and closed when not in use; provides a variance procedure for the screening requirement; provides a twelve month compliance period for

existing dumpsters not properly screened; prohibits disturbing or removing contents of dumpsters; provides regulations for permitting, maintenance and enforcement procedures concerning donation collection bins.

The Chamber requested this item be postponed for 2 weeks. Mr. Brumback recommended postponing this item until the next Council meeting.

Mike Beard registered to address the Council in regards to item 4.a. His concern is that the consumer is paying the price for human behavior. He made the following suggestions: Split this Ordinance; (1) with the collection bins and (2) with the litter; write an Ordinance to outlaw the recycling bins all together; allowing the Health department to submit citations to litter violators; re-enforce some of the litter Ordinances already in place; and highly recommends that the large establishment and the City come up with a voluntary program, not an Ordinance, to encourage the establishments to do more things towards the litter problem.

Mr. Brumback will bring an Ordinance back to Council in the next session. Mr. Sheley and Mr. McCartney suggested involving the Beautification Committee. Attorney Ignacio Ramirez suggested looking into the Outright Ban and if applicable bringing back an Ordinance for it.

Motion was made by Council Member McCartney, seconded by Council Member Caskey to postpone this item until the next Council meeting. The vote was as follows:

Ayes: Council Members: Yopez, Caskey, Capetillo, Sain, McCartney, Sheley and Mayor DonCarlos

Nays: None

The motion carried.

ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AMENDING CHAPTER 34 "ENVIRONMENT," ARTICLE I "IN GENERAL" OF THE CODE OF ORDINANCES, BAYTOWN, TEXAS, TO ADD A NEW DIVISION TO BE NUMBERED AND ENTITLED DIVISION 1 "LITTERING" TO PROHIBIT LITTERING WITHIN THE CITY AND TO REQUIRE COMMERCIAL ESTABLISHMENTS TO MAINTAIN SUFFICIENT RECEPTACLES FOR DEPOSITING SOLID WASTE; AMENDING CHAPTER 42 "HEALTH AND SANITATION," ARTICLE I "IN GENERAL" OF THE CODE OF ORDINANCES, BAYTOWN, TEXAS, TO ADD A NEW SECTION TO BE NUMBERED AND ENTITLED SECTION 42-1 "DONATION COLLECTION BINS" TO REGULATE THE PLACEMENT AND MAINTENANCE OF DONATION

COLLECTION BINS WITHIN THE CITY; AMENDING CHAPTER 86 "SOLID WASTE," ARTICLE I "IN GENERAL" OF THE CODE OF ORDINANCES, BAYTOWN, TEXAS, TO ADD THREE NEW SECTIONS TO BE NUMBERED AND ENTITLED SECTION 86-2 "DISTURBING OR REMOVING CONTENTS OF CONTAINERS," SECTION 86-3 "LITTERING GENERALLY" AND SECTION 86-4 "PENALTIES; ENFORCEMENT" TO PROHIBIT DISTURBING OR REMOVING CONTENTS OF CONTAINERS AND TO ESTABLISH THAT DEPOSITING WASTE IN VIOLATION OF THE CHAPTER CONSTITUTES LITTERING; AND AMENDING CHAPTER 86 "SOLID WASTE," ARTICLE III "COMMERCIAL SOLID WASTE," SECTION 86-131 "DEFINITIONS" OF THE CODE OF ORDINANCES, BAYTOWN, TEXAS, TO ADD A DEFINITION OF "DUMPSTER," AND SECTION 86-134 "UNLAWFUL MAINTENANCE OF WASTE" TO REQUIRE SCREENING OF CERTAIN DUMPSTERS AND TO PROVIDE A VARIANCE FOR SUCH SCREENING AND A VARIANCE APPEAL PROCEDURE; CONTAINING A REPEALING CLAUSE; CONTAINING A SAVINGS CLAUSE; PRESCRIBING A MAXIMUM PENALTY OF TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00); AND PROVIDING FOR THE PUBLICATION AND THE EFFECTIVE DATE THEREOF.

b. Crosby-Cedar Bayou Road and Needlepoint Agreement - Engineering.

City Manager, Garry Brumback presented the agenda item.

Ordinance 11,159 authorized an Interlocal Agreement with Harris County in the amount of \$421,423.95 for the reconstruction of Crosby Cedar Bayou and Needlepoint Roads. The reconstruction project includes Crosby Cedar Bayou Road from Massey Tompkins Road to Sjolander Road and Needlepoint Road from Sjolander Road to dead end near Cedar Bayou Stream.

Under the agreement, the County will perform the actual work. This will provide us a cost-effective approach to improving City and County portions of roadways quickly and with minimal inconvenience to the public. The City and County utilized the same type of agreement for the reconstruction of Hunt Road last year. The project specifications have been approved by our Engineering Department, who will also have inspectors on the job to ensure the specifications are followed.

This project is funded by the Street Maintenance Sales Tax fund.

This project will be rebuilding as a two lane and extends to the end of the public right of way.

Mayor DonCarlos inquired about there being enough rights of way for future addition of more lanes. He requests that we include some east and west thorough fares across Cedar Bayou Road.

Motion was made by Council Member Caskey, seconded by Council Member McCartney approving Ordinance 11,159. The vote was as follows:

Ayes: Council Members: Yopez, Caskey, Capetillo, Sain, McCartney, Sheley and Mayor DonCarlos

Nays: None

The motion carried.

ORDINANCE 11,159

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE AND THE INTERIM CITY CLERK TO ATTEST TO AN INTERLOCAL AGREEMENT WITH HARRIS COUNTY FOR THE RECONSTRUCTION OF CROSBY CEDAR BAYOU AND NEEDLEPOINT ROADS; AUTHORIZING PAYMENT BY THE CITY OF BAYTOWN IN AN AMOUNT NOT TO EXCEED FOUR HUNDRED TWENTY-ONE THOUSAND FOUR HUNDRED TWENTY-THREE AND 95/100 DOLLARS (\$421,423.95); MAKING OTHER PROVISIONS RELATED THERETO; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

c. Approve Reduction of Retainage and Periodic Payment for Northeast Wastewater Treatment Plant Project- Engineering.

City Manager, Garry Brumback presented the agenda item.

Ordinance 11,160 authorized a partial release of retainage and a periodic payment to CSA Construction, Inc., for the Northeast Wastewater Treatment Plant Project. Construction on the Northeast Wastewater Treatment Plant is nearly complete. The contractor, CSA Construction, Inc. is currently completing a few minor adjustments and minor punch list items. Final completion and operation of all elements of the project are still several months away; however, the biosolids (sludge) processing facilities cannot be started up and tested until the plant has processed sufficient wastewater to grow the biosolids required to be processed.

In accordance with Baytown's standard contract documents, a retainage of 5% is held until all items in the contract are completed and the punch list is corrected. The 5% retainage held on this contract is currently \$877,862.90. As the basins and equipment have been in service and properly functioning for over 2 months the contractor is

requesting that the retainage be reduced. This sludge processing equipment not started up is valued at about 6% of the total contract value of \$17,646,713.00. As the project is substantially completed except for the sludge processing we recommend the City Council authorize the retainage withheld be reduced from 5% to 1%. Based on the work completed, \$175,849 will remain withheld from payments to assure satisfactory completion of the project. A payment for work completed of \$27,374.49 during this period is added to the retainage release making the total payment \$729,664.81.

Motion was made by Council Member Caskey, seconded by Council Member Capetillo approving Ordinance 11,160. The vote was as follows:

Ayes: Council Members: Yopez, Caskey, Capetillo, Sain, McCartney, Sheley and Mayor DonCarlos

Nays: None

The motion carried.

ORDINANCE 11,160

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AUTHORIZING PAYMENT OF TWENTY SEVEN THOUSAND THREE HUNDRED SEVENTY-FOUR AND 49/100 DOLLARS (\$27,374.49) TO CSA CONSTRUCTION, INC., FOR WORK PERFORMED CONCERNING THE NORTHEAST WASTEWATER TREATMENT PLANT PROJECT; AUTHORIZING A PARTIAL RELEASE OF RETAINAGE TO CSA CONSTRUCTION, INC., FOR SAID PROJECT IN THE AMOUNT OF SEVEN HUNDRED TWO THOUSAND TWO HUNDRED NINETY AND 32/100 DOLLARS (\$702,290.32) TO CSA CONSTRUCTION, INC., FOR SAID PROJECT; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF

d. Amending Section 94-61 of the Code to Clarify Responsibilities Concerning City Traffic Operations - Legal.

City Manager, Garry Brumback presented the agenda item.

Ordinance 11,161 amended Section 94-61 "Authority and duties of Traffic Engineer" of the Code of Ordinances, Baytown, Texas, to clarify the responsibilities of the Director of Public Works with regard to traffic operations.

Because the Director of Public Works/Utilities is not an Engineer licensed in the State of Texas, the proposed ordinance deletes the reference to the term "Engineer." When traffic engineering is necessary, the City hires licensed Engineers in compliance with The Texas Engineering Practices Act. This amendment is designed to alleviate any confusion

which may exist due to the use of the term "Engineer" and clarifies that the Director of Public Works is responsible for overall traffic operations of the City.

Motion was made by Council Member Sain, seconded by Council Member Caskey approving Ordinance 11,161. The vote was as follows:

Ayes: Council Members: Yepez, Caskey, Capetillo, Sain, McCartney, Sheley and Mayor DonCarlos

Nays: None

The motion carried.

ORDINANCE 11,161

AN ORDINANCE OF THE CITY OF BAYTOWN, TEXAS, AMENDING CHAPTER 94 "TRAFFIC AND VEHICLES," ARTICLE II "ADMINISTRATION," DIVISION 2 "ENFORCEMENT," SECTION 94-61 "AUTHORITY AND DUTIES OF TRAFFIC ENGINEER" OF THE CODE OF ORDINANCES OF THE CITY OF BAYTOWN, TEXAS, TO CLARIFY THE RESPONSIBILITIES OF THE DIRECTOR OF PUBLIC WORKS WITH REGARD TO TRAFFIC OPERATIONS; PROVIDING A REPEALING CLAUSE; CONTAINING A SAVINGS CLAUSE; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

Agenda Item 4.e. was presented after Agenda Item 2.f.

e. Ordinance - Reimposing the City's 1% Sales and Use Tax on Residential Use of Gas and Electricity - City Management.

This proposed ordinance reimposes the City's 1% sales and use tax on the residential use of gas and electricity. In 1977, legislation was enacted to provide a local option on whether to charge the 1% City's sales tax on the receipts from the sale, production, distribution, lease, or rental of, and the use, storage, or other consumption of gas and electricity for residential use. On August 24, 1978, the City Council passed Ordinance No. 2521 to exempt family dwellings, multifamily apartments, housing complexes or buildings or portions of buildings occupied as a home or residence from the 1% City sales tax effective October 1, 1978. The City, however, has the ability to reimpose the tax since such tax was authorized before May 1, 1979, and since the residential use of gas and electricity was exempted by the City Council. In order to do so, the City Council must adopt an ordinance, which must be passed by at least five Council Members and entered into the minutes. The Interim City Clerk must then send the ordinance reimposing the taxes on residential use of gas and electricity to the Texas Comptroller of Public Accounts. The tax will take effect on January 1, 2010, based upon the interpretation of the statute by the Texas Comptroller of Public Accounts.

Mayor DonCarlos concluded that now is not the time or place to have any kind of tax increase.

Mike Beard and Reba Eichelberger both registered to address the Council in regards to item 4.e. but did not speak.

Motion was made by Council Member McCartney, seconded by Council Member Sheley denying the proposed Ordinance reimposing the City's 1% sales and Use Tax. The vote was as follows:

Ayes: Council Members: Yopez, Caskey, Capetillo, Sain, McCartney, Sheley and Mayor DonCarlos

Nays: None

The motion carried.

ORDINANCE

AN ORDINANCE OF THE CITY OF BAYTOWN, TEXAS, REIMPOSING THE CITY'S ONE PERCENT (1%) SALES AND USE TAXES ON THE RESIDENTIAL USE OF GAS AND ELECTRICITY; MAKING OTHER PROVISIONS RELATED THERETO AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

5. PROPOSED RESOLUTIONS

a. Amending Resolution No. 1994, Edward Byrne Memorial Justice Assistance Formula Grant - Legal.

City Manager Garry Brumback presented the agenda item.

Resolution 2002 amended Resolution No. 1994, which authorized the City's application to the Criminal Justice Division of the Texas Governor's Office for Fiscal Year 2009-10 grant funds from the Edward Byrne Memorial Justice Assistance Formula Grant Program (Stimulus), in order (i) to identify the name of the project for which funding is requested as the Police Academy Training, Supplies and Equipment Project, (ii) to acknowledge no matching funds are required; (iii) to designate the fiscal year in which the project will be operated; and (iv) to provide for repayment in the event of loss or misuse of grant fund.

City Council passed Resolution No. 1994 on July 11, 2009 authorizing the City to submit a grant application in the amount of \$349,859.01 to the Criminal Justice Division of the Texas Governor's Office for the Police Academy Training, Supplies and Equipment Project for the Fiscal Year 2009-2010. Grants will be funded through the Edward Byrne Memorial Justice Assistance Formula Grant Program. The grant application was

submitted and assigned Application Number 2229901. The Office of the Governor, Criminal Justice Division (CJD) performed a preliminary review of application number 2229901, and identified items that are needed to complete the review of the proposed project. Specifically, the CJD requested that Resolution #1994 be amended:

1. to identify specifically the name of the project for which funding is requested as the Police Academy Training, Supplies and Equipment Project;
2. to acknowledge no matching funds are required;
3. to designate the fiscal year in which the project will be operated; and
4. to provide for repayment in the event of loss or misuse of grant funds.

Motion was made by Council Member McCartney, seconded by Council Member Caskey approving Resolution 2002. The vote was as follows:

Ayes: Council Members: Yopez, Caskey, Capetillo, Sain, McCartney, Sheley and Mayor DonCarlos

Nays: None

The motion carried.

RESOLUTION 2002

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AMENDING RESOLUTION NO. 1994, PASSED ON JUNE 11, 2009, WHICH AUTHORIZED THE CITY'S APPLICATION TO THE CRIMINAL JUSTICE DIVISION OF THE TEXAS GOVERNOR'S OFFICE FOR FISCAL YEAR 2009-10 GRANT FUNDS FROM THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE FORMULA GRANT PROGRAM (STIMULUS) IN ORDER (I) TO IDENTIFY THE NAME OF THE PROJECT FOR WHICH FUNDING IS REQUESTED AS THE POLICE ACADEMY TRAINING, SUPPLIES AND EQUIPMENT PROJECT, (II) TO ACKNOWLEDGE NO MATCHING FUNDS ARE REQUIRED; (III) TO DESIGNATE THE FISCAL YEAR IN WHICH THE PROJECT WILL BE OPERATED; AND (IV) TO PROVIDE FOR REPAYMENT IN THE EVENT OF LOSS OR MISUSE OF GRANT FUNDS; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF

6. DISCUSSIONS

a. City of Baytown Fiscal Year 2009-2010 Proposed Budget - City Management.

City Manager, Garry Brumback presented the agenda item.

Discuss and take appropriate action concerning the proposed City of Baytown 2009-10 Fiscal Year Budget.

As a follow-up to the work sessions held August 5 & 6, this agenda item will provide response to Council questions and additional information related to the proposed City of Baytown 2009-10 Fiscal Year Budget.

7. APPEALS

a. Appeal: URSRB Demolition Order for 2929 North Alexander Drive - Planning and Development.

Conducted an appeal hearing concerning the August 03, 2009, decision of the Urban Rehabilitation Standards Review Board (URSRB) ordering the demolition of the commercial structure located at 2929 North Alexander Drive in Baytown, Texas. The owner may appeal the decision within ten days of the action of the URSRB.

On August 03, 2009, the City of Baytown Urban Rehabilitation Standards Review Board (URSRB) met and held a hearing to consider the demolition of the commercial building located at 2929 North Alexander Drive pursuant to Chapter 26 of the Baytown Code of Ordinances. The URSRB unanimously supported the motion to demolish.

Background:

The use located at 2929 North Alexander Drive was a body shop prior to Hurricane Ike. The buildings on the site do not comply with the setback requirements with respect to Cedar Bayou and to Alexander Drive. The owner attended a pre-application meeting with the City's Development Review Committee (DRC) in which he presented a site plan to rebuild that does not meet landscaping or setback requirements. The DRC advised Mr. Perez, the owner, to seek two things: 1) a variance from the setback requirements and provided him with the application forms and offered to assist him in applying; and 2) to seek an alternative site design which could make the property much more efficient and avoid having to apply for a variance.

To date, Mr. Perez has not requested a variance and has not applied for a permit with an improved and approvable site plan. At six months after Hurricane Ike, the City began enforcement actions on properties that had not complied with clean up, securing or demolition after the storm. The URSRB considered the staff recommendation to demolish and voted to demolish the remains of Mr. Perez's structure. Currently the structure is not usable in anyway and continues to be a safety hazard.

b. Consider Appeal for 2929 North Alexander Drive - Planning and Development.

Considered sustaining, amending or overturning the URSRB Demolition Order to demolish the commercial building located at 2929 North Alexander Drive, Baytown, Texas.

On August 03, 2009, the City of Baytown Urban Rehabilitation Standards Review Board (URSRB) met and held a hearing to consider the demolition of the commercial building located at 2929 North Alexander Drive pursuant to Chapter 26 of the Baytown Code of Ordinances. The URSRB unanimously supported the motion to demolish.

Background:

The use located at 2929 North Alexander Drive was a body shop prior to Hurricane Ike. Since the structures were non-complying prior to Hurricane Ike, the buildings cannot be constructed in the pre-existing location without several variances to the code. The buildings on the site do not comply with the setback requirements with respect to Cedar Bayou and to Alexander Drive. The owner attended a pre-application meeting with the City's Development Review Committee (DRC) in which he presented a site plan to rebuild that does not meet landscaping or setback requirements.

The DRC advised Mr. Perez, the owner, to seek two things: 1) a variance from the setback requirements and provided him with the application forms and offered to assist him in applying; and 2) to seek an alternative site design which could make the property much more efficient and avoid having to apply for a variance.

To date, Mr. Perez has not requested a variance and has not applied for a permit with an improved and approvable site plan. At six months after Hurricane Ike, the City began enforcement actions on properties that had not complied with clean up, securing or demolition after the storm. The URSRB considered that staff recommendation to demolish and voted to demolish the remains of Mr. Perez's structure. Currently the structure is not usable in anyway and continues to be a safety hazard.

Motion was made by Council Member Capetillo, seconded by Council Member Sain approving to demolish the remains of Mr. Perez's structure. The vote was as follows:

Ayes: Council Members: Yopez, Caskey, Capetillo, Sain, McCartney, Sheley and Mayor DonCarlos

Nays: None

The motion carried.

8. CONSENT

Motion was made by Council Member Sheley, seconded by Council Member Caskey approving Consent Items: 8.a., 8.b., 8.c., 8.d., 8.e., 8.f., 8.g., 8.h., 8.i., 8.j., and 8.k. The vote was as follows:

Ayes: Council Members: Yopez, Caskey, Capetillo, Sain, McCartney, Sheley and Mayor DonCarlos

Nays: None

The motion carried.

a. Ordinance 11,162: Annual Demolition of Residential Structures Contract #033-09 Renewal - Purchasing.

Ordinance 11,162 awarded the first renewal of the Annual Demolition of Residential Structures Contract to J.T.B. Services, Inc., in the amount of \$200,000.00.

J.T.B. Services submitted a written request to renew the current contract for the same pricing, terms and conditions; this contract does not include commercial demolition. The Planning and Development Services Department, Community Development Division will oversee all demolition of residential structures for the City. A minimum work order of 5,000 square feet will be packaged for the contractor to perform demolition services. The 5,000 square feet represents approximately 5 residential structures. The City will pay an "adder fee" in addition to square footage costs for any demolition package less than 5,000 square feet that the City requires on an emergency basis. J.T.B. Services, Inc., continues to provide excellent service and has recently been awarded the Annual Demolition of Commercial Structures.

ORDINANCE 11,162

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, RENEWING THE ANNUAL DEMOLITION OF RESIDENTIAL STRUCTURES CONTRACT WITH J.T.B. SERVICES, INC., AUTHORIZING PAYMENT BY THE CITY OF BAYTOWN IN THE SUM OF TWO HUNDRED THOUSAND AND NO/100 DOLLARS (\$200,000.00); MAKING OTHER PROVISIONS RELATED THERETO; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

b. Ordinance 11,163: Annual Hot-Mix Asphalt Contract #001-09 Renewal - Purchasing.

Ordinance 11,163 awarded the first renewal of the Annual Hot-Mix Asphalt Contract to Century Asphalt Ltd., in the amount of \$108,000.00.

Century Asphalt submitted a written request to renew the current contract for a 1.4% decrease in price per ton; a new price of \$53.24 per ton. The Public Works Department picks up the hot-mix asphalt from the supplier's plant site for pothole patching, streets, parking lots, and various other applications.

ORDINANCE 11,163

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, RENEWING THE ANNUAL HOT-MIX

ASPHALT CONTRACT WITH CENTURY ASPHALT LTD., AUTHORIZING PAYMENT BY THE CITY OF BAYTOWN IN THE SUM OF ONE HUNDRED EIGHT THOUSAND AND NO/100 DOLLARS (\$108,000.00); MAKING OTHER PROVISIONS RELATED THERETO; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

c. Ordinance 11,164: Annual Concrete Raising Contract #082-09 Renewal - Purchasing.

Ordinance 11,164 awarded the first renewal of the Annual Concrete Raising Contract in the amount of \$160,000.00 to Superior Grouting Services, Inc.

Superior Grouting Services, Inc., submitted a written request to renew the current contract for a decrease in unit pricing of 1.4%; a new price per square foot of \$2.51. This contract provides concrete raising services for the purpose of eliminating swales, birdbaths and related pavement failures on various concrete thoroughfares throughout the City. The contract requires the lifting and stabilizing for all thicknesses up to and including six inches (6") of concrete pavements including curb and gutter, roadways, and driveway aprons. Superior Grouting Services, Inc., continues to provide good service.

ORDINANCE 11,164

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, RENEWING THE ANNUAL CONCRETE RAISING CONTRACT WITH SUPERIOR GROUTING SERVICES, INC., AUTHORIZING PAYMENT BY THE CITY OF BAYTOWN IN THE SUM OF ONE HUNDRED SIXTY THOUSAND AND NO/100 DOLLARS (\$160,000.00); MAKING OTHER PROVISIONS RELATED THERETO; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

d. Ordinance 11,165: Annual Installation & Repair of Traffic Signal Equipment #048-09 Renewal - Purchasing.

Ordinance 11,165 awarded the second renewal of the Annual Installation and Repair of Traffic Signal Equipment Contract to Southwest Signal Supply, Inc., in the amount of \$133,600.00.

Southwest Signal Supply, Inc., submitted a request to renew the contract for another term for the same pricing, terms and conditions. The majority of services will be for new installation, trouble shooting, minor and major repairs which cannot be performed in-house, preventative maintenance, rebuilding of traffic signals, and emergency repairs. Southwest Signal Supply, Inc., continues to maintain excellent service.

ORDINANCE 11,165

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, RENEWING THE ANNUAL INSTALLATION AND REPAIR OF TRAFFIC SIGNAL EQUIPMENT CONTRACT WITH SOUTHWEST SIGNAL SUPPLY, INC.; AUTHORIZING PAYMENT BY THE CITY OF BAYTOWN IN AN AMOUNT NOT TO EXCEED ONE HUNDRED THIRTY-THREE THOUSAND SIX HUNDRED AND NO/100 DOLLARS (\$133,600.00); MAKING OTHER PROVISIONS RELATED THERETO; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

e. Ordinance 11,166: Annual Gasoline & Diesel Fuel Contract #024-09 - Purchasing.

Ordinance 11,166 awarded the fourth renewal of the Annual Gasoline and Diesel Fuel Contract to Oil Products Distribution, Ltd., in the amount of \$2,039,413.58. Oil Products Distribution, Inc., submitted a written request to exercise their renewal option for another term for the same profit margin.

Last year, due to the high cost of fuel, the contract was renewed early to avoid exceeding the allowable awarded total. The original awarded contract amount is \$1,631,530.87. The new award total includes a 25% increase to the original contract to allow for the fluctuation in usage and pricing in the market. The price per gallon of fuel is based on the daily Oil Publication Information Sheet (OPIS) price per gallon delivered. Currently, the City's contract is for flat OPIS (+or-zero) margin. If the City were to go out for bid rather than renew, the OPIS profit margin would most likely be plus OPIS, which would increase fuel costs considerably. The market for fuel is volatile and freight costs for fuel transport have increased considerably since initiation of this contract. The City of Baytown's portion of this contract is \$956,995.19. There is no guarantee which direction the market will go; however, it would be in the best interest of the City to maintain the flat OPIS profit margin.

The City of Baytown may terminate this contract with proper notice at any time and go out for bid. The awarded total includes all taxes and environment fees for all entities (City of Baytown, Goose Creek ISD, Barbers Hill ISD, Lee College, and City of Seabrook) included in the Interlocal Contract for fuel.

ORDINANCE 11,166

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, RENEWING THE CONTRACT OF OIL PRODUCTS DISTRIBUTION, LTD., FOR THE ANNUAL GASOLINE AND DIESEL FUEL CONTRACT AND AUTHORIZING PAYMENT BY THE CITY OF BAYTOWN, THE SUM OF TWO MILLION THIRTY-NINE THOUSAND FOUR HUNDRED THIRTEEN AND

58/100 DOLLARS (\$2,039,413.58); MAKING OTHER PROVISIONS RELATED THERETO; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

f. Ordinance 11,167: Annual Tire and Tube Contract #055-09 Renewal - Purchasing.

Ordinance 11,167 awarded the fourth renewal of the Annual Tire and Tube Contract to JMB Tire and Appliance Company, Sections I-Police Tires, and IV and VI-Heavy Truck Tires and Tubes, in the amount of \$77,237.57; and to Fuller Tire Company; Sections II-Passenger, Light Trucks, Medium Trucks, and Trailer Tires and Tubes; and Section III-Off-Road Tires and Tubes; in the amount of \$32,143.73; total contract award is \$109,381.30.

Both companies submitted written requests to renew their contract for the same terms and conditions. Both companies offer assorted brands of tires the majority of which are Goodyear tires. Each company notified the City to anticipate pass-thru price increases from Goodyear. The original contract award is \$87,505.04. The new awarded total includes a 25% increase to the original contract due to increased quantities and anticipated pass-thru increases to tires from Goodyear. Both companies continue to provide excellent service.

ORDINANCE 11,167

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, RENEWING THE CONTRACTS OF JMB TIRE AND APPLIANCE COMPANY AND FULLERS TIRE COMPANY, INC., FOR THE ANNUAL TIRE AND TUBE CONTRACT AND AUTHORIZING PAYMENT BY THE CITY OF BAYTOWN, THE SUM OF ONE HUNDRED NINE THOUSAND THREE HUNDRED EIGHTY-ONE AND 30/100 DOLLARS (\$109,381.30); AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

g. Ordinance 11,168: Community Development Block Grant Housing Rehabilitation Projects 319 W. Republic and 1420 Hawthorne - Planning and Development.

Ordinance 11,168 awarded two Housing Reconstruction Projects to Southwest Innovations, Inc., under the Owner-Occupied Housing Rehabilitation Program for low-income persons.

Notices of the bid package were published in the Baytown Sun and mailed directly to 26 contractors from the approved contractors list. Notices were also posted with Construction Data, which is delivered to over 600 Houston area contractors. Ten contractors picked up the bid packages and attended the mandatory pre-bid conference; two of the contractors submitted a bid and two submitted a "no bid".

The Housing Reconstruction Project located at 319 W. Republic is proposed in the amount of \$48,127.50 to construct a three bedroom, one bath, approximately 1035-square-foot home. The existing 1434-square-foot home was built in 1950 and requires extensive repairs to make it code compliant. The work write-up estimate is \$43,823 for repairs, which exceeds the program's \$25,000 limit to make repairs. This structure should be demolished and rebuilt.

The Housing Reconstruction Project located at 1420 Hawthorne is proposed in the amount of \$48,127.50 to construct a three bedroom, one bath, approximately 1035-square-foot home. The existing 1086-square-foot home was built in 1945 and requires extensive repairs to bring it into code compliance. The work write-up estimate is \$35,320, which exceeds the program's \$25,000 limit to make repairs. This structure should be demolished and rebuilt.

ORDINANCE 11,168

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AWARDED THE CONTRACT FOR THE HOUSING RECONSTRUCTION PROJECT LOCATED AT 319 W. REPUBLIC AND 1420 HAWTHORNE TO SOUTHWEST INNOVATIONS, INC., FOR THE SUM OF NINETY-SIX THOUSAND TWO HUNDRED FIFTY-FIVE AND NO/100 DOLLARS (\$96,255.00); AUTHORIZING PAYMENT THEREOF; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

h. Ordinance 11,169: Memorandum of Understanding with Baytown Area Water Authority for Ike, CDBG - Planning and Development.

Ordinance 11,169 authorized a Memorandum of Understanding between the Baytown Area Water Authority (BAWA) and the City of Baytown to cooperate in the development and implementation of BAWA's project(s) under the IKE CDBG Program.

Pursuant to the MOU, the City agrees to apply to the Texas Office of Rural Community Affairs (the "ORCA") for the Texas Community Development Block Grant Program 2008 Supplemental Disaster Recovery Fund; Hurricanes Dolly and Ike (the "IKE CDBG") to address non-housing public infrastructure that was damaged or failed to function during Hurricane Ike and to mitigate future disaster events. If any proceeds are awarded under the Ike CDBG, the City will allocate and distribute the proceeds of the IKE CDBG to BAWA for eligible projects in accordance with federal law and the application to the IKE CDBG. BAWA will assume ownership and responsibility for long-term maintenance and operation of the eligible projects for which funds from the IKE CDBG will be used.

ORDINANCE 11,169

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE AND THE INTERIM CITY CLERK TO ATTEST TO A MEMORANDUM OF UNDERSTANDING WITH THE BAYTOWN AREA WATER AUTHORITY (BAWA) ALLOWING THE CITY OF BAYTOWN TO IMPLEMENT BAWA'S PROJECT(S) UNDER THE IKE CDBG PROGRAM; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

i. Ordinance 11,170: Closeout of Northeast Wastewater Treatment Plant Off-Site Phase II Project. - Engineering.

Ordinance 11,170 approved the release of retainage and final payment in the amount of \$36,766.21 to Huff & Mitchell, Inc., and accepts the Northeast Wastewater Treatment Plant Off-Site Phase II Project.

The original contract was awarded to Huff & Mitchell, Inc. for \$724,645.00. The project totaled \$664,074.20; this was a cost savings of \$60,570.80. The project consisted of the installation of an 8" diameter force main and a 18" and 21" gravity sewer line from the Pinehurst Lift station to the Northeast Waste Water Treatment Plant. The contractor finished the project with satisfactory workmanship. The project was substantially completed within the contract time. Completion has been delayed due to coordination with the railroad for a crossing repair and for the startup of the Northeast Wastewater Treatment Plant.

ORDINANCE 11,170

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, ACCEPTING THE NORTHEAST WASTEWATER TREATMENT PLANT OFF-SITE PHASE II PROJECT; AUTHORIZING FINAL PAYMENT OF THE SUM OF THIRTY-SIX THOUSAND SEVEN HUNDRED SIXTY-SIX AND 21/100 DOLLARS (\$36,766.21) TO HUFF & MITCHELL, INC., FOR SAID PROJECT; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

j. Ordinance 11,171: Approve Change Order for Old Court and Jail Facility Renovation Project- Engineering.

Ordinance 11,171 authorized Change Order #3 with Hull & Hull, Inc., for the Old Court and Jail Facility Renovation Project in an amount not to exceed \$10,000.00.

The Change Order includes the installation of a UL level bullet resistant wall and pass through window at the new public lobby for the patrol division. The original contract was

for \$292,820.00, and two change orders have been administratively executed for a total of \$17,045.99; bringing the contract total before this change order to \$309,865.99. The total contract including Change Order No. 3 will be \$319,865.99. In addition, we recommend adding 14 calendar days to the project to allow for product arrival and installation.

ORDINANCE 11,171

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AUTHORIZING CHANGE ORDER NO. 3 WITH HULL & HULL, INC., FOR THE OLD COURT AND JAIL FACILITY RENOVATION PROJECT; AUTHORIZING PAYMENT BY THE CITY OF BAYTOWN, IN AN AMOUNT NOT TO EXCEED TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00); AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

k. Resolution 2003: 2009 Houston High Intensity Drug Trafficking Area (HIDTA) Grant - Finance.

Resolution 2003 authorized the City of Baytown to apply to Office of National Drug Control Policy (ONDCP) for a 2009 grant for the Houston High Intensity Drug Trafficking Area (HIDTA) Program and authorizes the City Manager to take all actions necessary to implement the grant.

On June 26, 2008, Council approved an application for a grant from the ONDCP in connection with the HIDTA Program for 2008. This agreement is substantially the same as the agreement currently in effect. The proposed grant totals \$765,802.00 for program administrative costs plus allowable indirect costs to the City of Baytown. The Police Department is acting as the agent for this federal project. The Deputy Coordinator provides review of the Houston HIDTA funded initiatives and travels to other HIDTA(s) to review their administrative procedures in order to provide guidance for developing effective procedures for the Houston HIDTA. Funds are available through the Office of National Drug Control Policy. This program will be funded 100% by the Federal Government and matching City funds are not required. This will be the fifteenth year of the program.

RESOLUTION 2003

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AUTHORIZING THE CITY MANAGER TO MAKE APPLICATION TO THE OFFICE OF NATIONAL DRUG CONTROL POLICY (ONDCP) FOR A 2009 GRANT FOR THE HIGH INTENSITY DRUG TRAFFICKING AREA PROGRAM IN THE AMOUNT OF SEVEN HUNDRED SIXTY-FIVE THOUSAND EIGHT HUNDRED TWO AND NO/100 DOLLARS (\$765,802.00); DESIGNATING AN AUTHORIZED REPRESENTATIVE; AUTHORIZING THE REPRESENTATIVE TO ACCEPT OR AFFIRM

ANY GRANT AWARD THAT MAY RESULT THEREFROM; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

9. MANAGER'S REPORT

a. Baytown Online Auction Update - City Manager.

City Manager, Garry Brumback presented the agenda item.

The City of Baytown online auction process has been in effect since April 2008 with six auctions conducted to date. Those auctions have netted back to the City a total of \$206,898.51.

10. ADJOURN

Motion was made by Council Member Sheley, seconded by Council Member Caskey adjourning the August 13, 2009, Regular Meeting. The vote was as follows:

Ayes: Council Members: Yopez, Caskey, Capetillo, Sain, McCartney, Sheley and Mayor DonCarlos

Nays: None

The motion carried.

Mayor DonCarlos adjourned the Regular City Council Meeting of August 13, 2009 at 8:05 P.M.

Leticia Garza, Interim City Clerk
City of Baytown