

The Regular Council Meeting of February 28, 2017 was called to order at 6:30 p.m.

**MAYOR**

Ron Reinhard

**OTHERS**

Shannan Kinsley

Madeline McCloskey

Chief David Bejar

Debbie Swisher

**COUNCILMEMBERS**

Chris Mikel

James Swisher

Susan Darst

Susan Beavin

Kimberly Verity

Lou Hoffman

Don Reddout

Theresa Ernest

Phil Howard

Gigi Duke

Jeff English

Jennifer Nottingham

Tom Haberman

Kelly Dawley

Lynn Tiner

Chandler Baker

Mayor Reinhard declared a quorum with all Councilmember's present. The meeting was started with the Pledge of Allegiance.

**APPROVAL OF MINUTES**

The minutes of the December 27, 2016 Regular Council Meeting were reviewed. Mayor Reinhard asked if there are any corrections. Council member Nottingham stated she has a question, if she may because she wasn't present at this meeting. She stated in reading over the minutes, Page 4, 1<sup>st</sup> paragraph, a little more than halfway down, it states "if they match SAWS over the next 10 years, it would generate about \$80,000 in additional revenue". Council member Nottingham asked if that's correct, basically an additional \$80,000 over 10 years, approximately \$8,000 each year. Mayor Reinhard stated he believes that is correct. He stated we have two items on the Agenda this evening; the water tank and water rates so if there needs to be any other clarification, we can make it at that time. Mayor Reinhard asked if there's a motion to approve the minutes. Council member Tiner made the motion to approve the December 27, 2016 Minutes as written. The motion was seconded by Council member Darst and passed with 4 YES and 1 ABSTAINING by Council member Nottingham as she wasn't present at that meeting.

**PRESENTATIONS BY CITIZENS AND VISITORS**

Mayor Reinhard stated Presentations by Citizens and Visitors is an opportunity for citizens/visitors to address council. Comments are limited to three minutes. Council can't engage in discussion but can ask questions for clarification.

Theresa Ernest introduced herself and stated "she's here this evening as she really needs to be heard on the pesticide situation. It's something she's very passionate about. She wishes we could all try to get rid of being on sides and try to be a little more unified as a group. Her dad is an accomplished research scientist and she's proud of that. She grew up living her whole childhood around different medical schools because her dad was well known for three different studies that he was very involved in. One study was about the overuse of antibiotics and how bad that is. Her dad was also instrumental in a study about Vitamin C. His group realized that taking Vitamin C to waive off colds wasn't really that great of a thing to do and it was important to cut back because your body gets accustomed to it. The third thing she grew up with is pesticides, any kind of pesticides. It was taboo in her home. Her dad was adamant that they never have pesticides in their house. He proved time and time again that it's a carcinogen. Now, her backyard is the creek and it's mind-boggling to her that they would put anyone in this situation. She's amazed that this is more important than our health. Now she hears that concerned citizens will have to take down all their pesticide signs. She's talked to a lot of people about the pesticide situation; a lot don't agree with it and can't believe it's even going on at all. Theresa Ernest stated she's extremely passionate about this and doesn't know why we're where we are. She doesn't know how far she's going to take her concern, but she has media outlets and may try getting help through them".

Tom Haberman stated "he would like to have seen Pat Warr and Laurie Hawkins here this evening. What Pat Warr wanted to do was to be able to have her lawn man trim her trees and not have to pay a certified arborist or tree trimmer. As much money as they cost, he thinks that is reasonable. So what he did was talk with Laurie Hawkins and Jennifer

Nottingham about our ordinance on cutting Oak Trees. He thinks the ordinance overall is good but a few things could be changed to assist citizens. Tom Haberman provided Council a copy of his suggestions. He stated the current ordinance leans towards the City telling a property owner what they can and can't do on their property. His suggestions give the citizen a little more lenience on what they're doing with their own land. He's not asking anyone to make a decision on this right now but is asking they consider it. What he has suggested is under Tree Permits, where one is needed, he's inserted "Oak Trees" so permits would only be needed if trimming Oak Trees: Where it addresses citizens performing their own work on their own property, he added "or who are physically present and visually supervising work being done on their property, are exempt from permit requirements except as indicated in paragraph 5" which has to do with trimming during certain months. Under Firewood, the current ordinance basically says you can't bring diseased wood into the community. If you look up what the Texas Forestry Services say, they suggest "you use only well-seasoned firewood, looking for the bark to be loosened from the logs, and the wood to contain cracks at the ends of the logs". That's why he suggested that change. Tom Haberman stated he thinks people should have some say in what they're doing on their own land. He asks that Council look at the ordinance and considers his suggestions.

### **MAYOR ANNOUNCEMENTS/FINANCIAL REPORTS**

Mayor Reinhard reviewed the Monthly Financials. He stated we are about a third of the way into the budget year. Some items are under budget and in a few places a little over budget. He stated there are aspects of the budget that have to be estimated as we don't have the formulas at the time the budget is adopted. We will be watching those as we go through the year and make adjustments if needed. The financials are in line with where they should be and he doesn't see anything out of line that hasn't already been discussed. Mayor Reinhard reviewed the City Attorney Legal Activity. He stated there were several items we consulted with our City Attorney on and asked if Council had any questions on these items. There was no further discussion.

### **COUNCIL/STAFF ANNOUNCEMENTS**

None.

### **COMMITTEE ANNOUNCEMENTS/REPORTS**

Mayor Reinhard stated at the last Council Meeting, several items came up that different Council members volunteered to look into. Those items are on the Agenda and will be discussed at that time.

### **GREY FOREST COMMUNITY BOARD (GFCB) UPDATE**

Mayor Reinhard stated Laurie Hawkins had a commitment this evening and asked Council member Darst if she could give an update. Council member Darst stated the Grey Forest Community Board (GFCB) just finished their third permit drive. The park signs have been received and the poles are up. They're waiting on coordinating getting the signs installed on the poles and the posts painted.

### **SENATOR FRANK L. MADLA, JR. NATURAL AREA UPDATE**

Council member Nottingham stated the Madla Board has a fundraiser coming up on April 1<sup>st</sup>. You can buy tickets on the Madla Park website or at the door. They are still accepting donations to cover the costs. Christy Knight is always very helpful in working with the Board for the room arrangements at Scenic Loop Cafe. They received a generous donation to cover the food which is very much appreciated. They are looking for an additional donation of \$500 to cover the remainder of the expenses.

### **BOARD OF ADJUSTMENT UPDATE**

None.

## **POLICE DEPARTMENT ACTIVITY REPORT**

Chief Bejar reviewed the January 2017 Monthly Activity Report. There were 99 calls for service, 1035 hours worked, 5348 total miles driven, 36 traffic stops, 32 summons issued, 11 warnings issued and 2 arrests. One arrest was a misdemeanor and the other a felony. The felony was a family member breaking into the house. Chief Bejar stated he's presenting to City Council the 2016 Racial Profiling Report. He's required to present it each year. In 2016 there was the following number of motor vehicle stops: 530 total stops, citation only 529, arrest only 0, and both 1. The racial or ethnicity breakdown of those traffic stops: African 21, Asian 9, Caucasian 284, Hispanic 208, Middle Eastern 8 and Native American 0. The race was not known prior to the stop 530 times and known 0 times. A search was conducted 3 times and no search was conducted 527 times. The search was not consented 3 times and consented zero times. All three of the searches were made from probable cause. Chief Bejar stated the report was submitted electronically to The Texas Commission on Law Enforcement on February 8, 2017 and to City Council on February 28, 2017.

## **PUBLIC WORKS ANNOUNCEMENTS**

Chris Mikel reviewed the January 2017 Monthly Activity Report. Public Works continues to work on tree trimming, citizen's brush chipping, roadwork and regular upkeep of the City. In January they focused on any Oak Trees that needed attention before the Oak Wilt Ordinance kicked in prohibiting any trimming. The feed roller on the chipper cracked and the wheel come loose but luckily this was after all the chipping was done. The chipper is now out of commission but needed to be serviced anyway. They dropped the chipper off to Vermeer on Monday and it's going to need some work. From his understanding, the chipper hasn't been serviced since the City bought it many years ago.

When Vermeer ran the VIN Number, it wasn't even registered to City.

## **GFU UTILITY ANNOUNCEMENTS**

Jeff English stated the utility ended the year with approximately 14,500 customers. They added about 609 customers last year which was kind of an upper-level record for them as far as number of customers. The performance last year was almost identical to the prior year. They did about \$4.3 million in net earnings which is pretty good when you consider the fact that we really had no cold weather to speak of. The utility is running smooth and things are in good shape. Mayor Reinhard stated replacement of the water tank is on the Agenda for discussion later in the meeting.

## **FIRE DEPARTMENT REPORT**

Don Reddout stated City Council has been provided the run report. There were four calls for service in January 2017; two EMS, one other than EMS and one was cancelled in route. The Average Response Time was one minute. Average number of personnel 2.75. Average number of apparatus 1.25.

## **NEW BUSINESS:**

### **1. DISCUSSION AND ACTION ON AUTHORIZING THE MAYOR TO SIGN A LEASE AGREEMENT FOR A COLOR DIGITAL COPIER**

Mayor Reinhard stated the lease agreement is for a color digital copier. Our current machine is several years old and the lease is due to expire over the next year. The cost for the updated copier is identical to what our current lease is. It's a 48 month lease and includes all maintenance, black toner, parts and labor for 24,000 copies per year. There are no property taxes throughout the lease. The current lease will be terminated. The City is responsible for the color toner but we don't go through it as quickly. It includes delivery, set-up and IT Support. Mayor Reinhard stated it's a better copier than what we have now and asked if there's a motion to approve him signing a 48 month lease. The motion to authorize the Mayor to sign on behalf of the City of Grey Forest a 48 month lease agreement for a color digital copier was made by Council member Howard, seconded by Council member Nottingham and passed unanimously.

## **2. DISCUSSION AND ACTION ON UPDATES TO THE CITY WEBSITE**

Mayor Reinhard stated this was a request made by Council member Hoffman so he'll ask that he speak on the item. Council member Hoffman stated he was thinking that it might be helpful to the citizens to recognize all our employees, at least those who are on the payroll by having their names, pictures and a short bio next to them to personalize the City website. He recently met a new Police Officer and had no idea who he was. His other concern, which he has brought up before is that the minutes for the meetings are still not on the City website. The last posted minutes are January, 2016. Mayor Reinhard stated if an employee does not want their picture on the City website, we do not require it. He can look at possibly a short bio, but again, if an employee does not want that on the website, we're not going to force them. In terms of the minutes, Shannan has been working on catching them up and getting them posted on the City website. Council member Nottingham asked Chief Bejar is there are any security issues with the Police Officers having pictures on the City website. Chief Bejar stated there are probably a third of the officers that would have a problem with putting bios on the website. In the last group picture they took as a department, a small number of officers preferred not to have their picture go on the website and he did not require it. Mayor Reinhard this is part of our administrative duties and we will continue to make updates under our current procedures.

## **UNFINISHED BUSINESS:**

## **3. DISCUSSION AND ACTION ON WATER TANK REPLACEMENT OPTIONS**

Mayor Reinhard stated in December, 2016 there was discussion on replacement of the water tank and rate adjustments. Jeff English and Kelly Dawley from Grey Forest Utilities (GFU) are here this evening to discuss the options. Jeff English stated they are only prepared to talk about the water tank replacement this evening. They're not prepared to talk about rates adjustments as there may be enough money in reserve for the project. Originally, they were estimating the project would cost somewhere in the \$180,000 range but when the bids came back, it was in our favor. Southwest Engineers took the project out for bid for a bolted 202,000 Gallon Ground Storage Tank. Four bids were received. The low base bid came back at \$150,000. Southwest Engineers recommends award of the project to TTE, LLC in the amount of \$150,000. They have worked with them on several projects in the past with good results, and they believe the contractor can successfully complete the project in a timely manner. There's approximately \$210,000 in the Water System Contingency Fund. That will leave some money for repair of the existing tank if it's feasible. There's enough room for two tanks at the site. The GFU Board of Trustees unanimously recommends to City Council that they accept the \$150,000 bid and the recommendation of the engineers to proceed with construction of the new tank. They believe the existing tank still has some life in it and think it would make a great storage vessel if there's a way to preserve it. The new water tank will take about 180 days to construct and then the old tank will be taken out of service for repair, again if feasible. If additional funding is needed to repair the old tank, that can be addressed at a later date along with the water rates. Jeff English stated they have enough money to address the big issue, which is the water tank. The next discussion is, do you want to replenish the Contingency Fund at the same pace as done in the past or do you want to address the water rates and replenish at a faster pace down the line. That will be a decision Council has to make. Council member Howard stated he likes the idea of borrowing money to replace the water tank because interest rates are so low. It just provides more flexibility if something unexpected comes up. Jeff English stated Jefferson Bank would make funding available if needed to cover any unforeseen needs. We have excellent credit and if it was up to him, he would pay for it out of the Contingency Fund. If additional funding is needed, borrow at that time. They have diligent staff that watches the money day in/out and Kelly does an excellent job of managing the maintenance/operations. If you borrow money, the interest rate would need to be collected through the rate adjustment which every utility has to do at some point, but you want to take that into consideration. Jeff English stated this is Council's choice and he would be glad to move forward with any decision they make. Mayor Reinhard asked if there was a motion. Council member Nottingham made the motion to approve the recommendation from the GFU Board of Trustees to accept Southwest Engineers recommendation to award the project to TTE, LLC in the amount of \$150,000 for a 202,000 Gallon Ground Storage Tank. The motion was seconded by Council member Howard and passed unanimously.

#### **4. DISCUSSION AND ACTION ON AMENDING WATER ORDINANCE NO. 81B, APPENDIX ON WATER RATES AND OTHER CHARGES**

Mayor Reinhard stated this item will be postponed to a future date and thanked Jeff English and Kelly Dawley.

#### **5. DISCUSSION AND ACTION ON REQUEST SUBMITTED BY MOBILITIE INTELLIGENT INFRASTRUCTURE FOR PLACEMENT OF A POLE STRUCTURE**

Mayor Reinhard stated the City received a request from Mobilitie to allow placement of a communications tower in the City that will help service with certain wireless carriers. This item was discussed at a previous meeting and Council agreed it was something they wanted to investigate further. Council member Howard agreed to look into it and work with Mobilitie on potential sites. Council member Howard stated Mobilitie's proposal is to place the tower on City property or the right-of-way. They looked at different locations; Madla Park, water tank site, behind City Hall, Grey Forest Community (GFC) Park Property and across the street from City Hall. The GFC Park Property was eliminated due to the deed restrictions. After the representative from Mobilitie brought this information back to their engineers, the site selected was across the street from City Hall at the intersection of Cedar Crest Drive. The tower could have Wi-Fi capability reserved for the City and eventually video camera monitoring. It would be City equipment but they would mount it on the tower for us. There are three different colors we can choose from. It will have a red light at the top of the tower. They will be sending us a draft contract to review. Mobilitie discussed a 25-year contract which is probably okay except he would like to see a stipulation for review of the contract every 5-years. The original proposal was to pay the City \$500 annually or 4% of income. Financially, it makes more sense to receive 4% of an ever-increasing stream of income than a fixed sum, which depreciates over a period of time. Right now Mobilitie has a contract with Sprint but is in negotiations with T-Mobile and Verizon. Mayor Reinhard stated Council member Howard will continue to work with Mobilitie. As he receives more information, he will bring it back to Council for consideration.

#### **6. DISCUSSION AND ACTION TO CONSIDER AMENDING ORDINANCE NO. 164 AS AMENDED, ESTABLISHING RULES AND REGULATIONS REGARDING OAK WILT**

Mayor Reinhard stated this item was discussed during Presentations by Citizens. The Oak Wilt Ordinance currently requires a Tree Maintenance License if you are receiving any form of compensation. For those not aware, Pat Warr asked Council to reconsider the Oak Wilt Ordinance to give citizens the ability to be responsible for trimming or cutting on their own property. That would allow homeowners the ability to hire unlicensed lawn care individuals if they are present and then putting the responsibility for the work being performed on the homeowner. Council member Nottingham thanked Tom Haberman for his efforts in reviewing the Oak Wilt Ordinance and making suggestions. She stated Laurie Hawkins apologizes for not being available this evening but she had a work commitment. Council member Nottingham stated she would like to suggest that the Tree Maintenance License requirement be a little stricter than what Tom proposed. Her thought is if the resident doesn't want to hire someone with a Tree Maintenance License like the ordinance stipulates and wants to take responsibility over seeing the work, then the resident should take the class to get certified. The license is not hard to get or maintain. Then the resident can be on the premises, physically supervising whoever they choose to hire and they become responsible for any issue. There's a Temporary Tree Maintenance License that's good for 1-year for \$75 or a 3-year certificate for \$165. The course is offered in English and Spanish. The certification requires you carry general liability insurance but she believes we can figure out a way around that with a certificate of attendance. This would give homeowners another option. What prompted the required certification is that we've had incidents in the City where a contractor was hired who should've known the difference in trees and didn't. Council member Howard stated he thought this ordinance was developed because of the concern of Oak Wilt but here you have to get a permit to trim any tree if receiving compensation. It states Oak Wilt Ordinance and should address just that, Oak Wilt. It should be about education on Oak Wilt. Council member Hoffman stated the ordinance is overkill. Basically, what you're saying is we can't trust our citizens to be responsible. He stated as Laurie Hawkins has pointed out, despite our best intentions, there's still a chance we're going to have Oak Wilt among us. Council member Tiner stated it should be about education such as newsletters, presentations and educate people on the problem. There was

further lengthy discussion. Mayor Reinhard stated he would like to try and bring this discussion, at least for tonight to a close. He stated Council received some recommendations for additional language from Tom and Council member Nottingham. He would like to get direction from Council on what they want to do. Council member Hoffman stated he thinks the changes Tom suggested are the most reasonable. Council member Darst stated she thinks Tom's changes are reasonable. She's afraid that if we make the ordinance so intricate, we're making it really hard to follow. Council member Tiner stated he likes the way the Oak Wilt Ordinance was written but it is pretty restrictive. He does like the changes Tom suggested. Council member Howard stated he would like to have the changes that were verbalized this evening put into a final draft for review. In addition, what we need to be cognizant of is some sort of formalized educational effort, push information out to people somehow. Council member Nottingham stated another option is to paint everything. If you're not certified and you cut it, you paint everything. Therefore, if you accidentally cut an Oak Tree and thought it was a Ligustrum, you're still covered. Council member Tiner stated he doesn't have a problem with that. Council member Hoffman stated he's not going to paint cedar trees. Council member Howard asked if Council could vote on putting Tom's changes into final format for review. Council member Nottingham stated she would like to meet with Laurie and Tom to get a rewrite into final format so that Council can see exactly what they're voting on. Council member Hoffman made the motion to Amend Ordinance No. 164 and incorporate the suggestions made by Tom Haberman. The motion was seconded by Council member Howard. The motion failed with 2 YES and 3 NO by Council member Darst, Council member Nottingham and Council member Tiner. Council member Darst stated she would like to see the suggested changes in final format. Mayor Reinhard stated Council member Nottingham will work with Laurie Hawkins and Tom Haberman to review and incorporate the suggested changes into final format.

#### **7. DISCUSSION AND ACTION ON CHANGING THE TYPE OF MAILBOXES THAT ARE NOW ON CITY PROPERTY**

Mayor Reinhard stated at the last Council Meeting, Council member Darst agreed to investigate the possibility of changing the type of mailboxes on City property across the street from City Hall due to theft issues. Council member Darst stated she called the Post Office. She didn't speak with the Postmaster but the gentleman she spoke with stated changes would have to go through their Planning Department. For their Planning Department to even look at it we would have to do a poll of all our citizens who use those mailboxes and would need 100 percent support of cluster boxes. Council member Hoffman stated that was the stumbling block the last time this issue was visited. There was Council discussion on moving the location of the current mailboxes and would we would need 100 percent participation to move the location. Council member Darst stated she can check on that and revisit the conversation. Mayor Reinhard asked Council member Darst if she could inquire on the location, if we establish a new location for the mailboxes, would we need 100 percent participation. In addition, if it has to go through their Planning Department, who would pay for it. If it goes through their Planning Department, do they pay for it or if the City pays for it, could we say this is how we want our mail delivered and not require a poll with 100 percent participation. Mayor Reinhard stated Council member Darst will work on getting clarification and carryover this item to the next meeting.

#### **8. DISCUSSION AND ACTION ON ADA COMPLIANCE UPDATE**

Mayor Reinhard stated as most are aware, the City had to bring the handicapped parking in front of City Hall up to code due to a complaint filed with the State for the parking not being ADA Compliant. The construction has been completed. It was inspected today by the ADA Compliance Inspector and will be filed with the Texas Department of Licensing and Regulation (TDLR). The inspector advised the construction meets code but some additional painting needs to be done to be in compliance. James Swisher stated they are requiring the blue striping to be two inches wider. He will have someone come out and add two inches of paint. Shannan Kinsley stated the inspector has advised they will accept pictures and not be required to come back out. Mayor Reinhard thanked James Swisher for doing the work so inexpensive. He stated the next lowest bid was more than double the price of what Mr. Swisher charged.

**9. DISCUSSION AND ACTION ON THE CITY ENGINEER CONCEPT PLAN FOR STREET AND DRAINAGE MAINTENANCE/REPAIRS**

Mayor Reinhard stated we contacted our City Engineer regarding the City Engineer Concept Plan and Council identifying Cedar Crest as an area they would like to address. Our City Engineer advised he would need to revisit the site because the area Council identified is different than what's in his report. The area identified on Cedar Crest that's in his report was an area the Fire Chief reported where the fire trucks were having a problem getting through. The area Council identified is further up Cedar Crest at the low water crossing. The City Engineer advised he will come back out to look at the issue and clarify the problem. He did advise that he thought a one-way street was a good idea. Mayor Reinhard stated we will keep Council updated.

**10. DISCUSSION AND ACTION TO CONSIDER AMENDING ZONING ORDINANCE NO. 45B AS AMENDED, SECTION 18: SIGNS**

Mayor Reinhard stated at the June, 2016 Meeting, he had an item on the Agenda to address signs as he had received numerous complaints about the "No Pesticides" signs. At that time, he made the statement that our Ordinance did not support us requiring citizens to take down those signs. He also stated that at some point, this may need to be revisited to add more specifics in regards to signage. Mayor Reinhard stated Council member Howard was not on Council at that time and has asked to address this issue. Council member Howard stated he would like to address the lack of enforcement of Ordinance No. 45B, Section 18.01, Temporary Signs. The June, 2016 minutes state the ordinance is being enforced as written. As said, various citizens read the ordinance and believe it's clear the "No Pesticides" signs are in violation of Ordinance No. 45B since they remain on display for a period greater than 72 hours. It has been suggested that we rewrite the ordinance but if there's no determination to enforce the ordinance, rewriting it would be a waste of time and money. The signs take away the natural beauty of Grey Forest. What would the City look like if each property had numerous signs expressing views on any number of topics. On the other side, the individuals displaying the signs believe they have a right to express their views. Council member Howard stated his recommendation is that Council either enforce the ordinance that exists as it is written or eliminate it. If the ordinance is found to be not enforceable, we could ask the court for guidance on how to draft an enforceable sign ordinance. Mayor Reinhard stated we are enforcing the sign ordinance as written. There is no definition of Temporary Signs. It states any temporary sign that will remain beyond a 72-hour period must be on private property for which the sign is designated. Those signs are on private property. The claim that we are not enforcing our ordinance is incorrect. The City Attorney and Municipal Judge have both said the ordinance is vague and needs to have stricter language. In addition, you have to be careful about violating First Amendment rights. Council member Darst stated you can't monitor content. Council member Howard stated it has nothing to do with pesticides, it's about how it makes the community look. Council member Nottingham stated she has a problem with people littering the City with signs, especially if we're supposed to be a Wildlife Preserve. Council member Darst stated she thinks people should have the freedom to express their opinion but with limits. You can have restrictions such as the number of signs, size, time period, etc. There was further lengthy discussion. Council member Hoffman stated this isn't going to be fixed tonight and asked if we could move on. Mayor Reinhard stated Council needs to decide what's appropriate for our community and then tightening up the ordinance. He asked Council to do some research, maybe see what other communities do and address this at the next Council Meeting.

There was no further business or discussion. Mayor Reinhard adjourned the Regular Council Meeting at 8:37 p.m.

These minutes were written/recorded by Shannon Kindry.

These minutes were approved as written/amended on the 27 day of June, 2017.

Signed: \_\_\_\_\_