

MINUTES - CITY OF BEAUMONT

W.L. Pate, Jr., Mayor Pro Tem
Dr. Alan B. Coleman, Ward I
Audwin Samuel, Ward III
Tyrone E. Cooper, City Attorney

BECKY AMES, MAYOR
CITY COUNCIL MEETING
March 22, 2011
Kyle Hayes, City Manager

Gethrel Williams-Wright, At Large
Ward II
Jamie Smith, Ward IV
Tina Broussard, City Clerk

The City Council of the City of Beaumont, Texas, met in a regular session on March 18, 2011, at the City Hall Council Chambers, 801 Main Street, Beaumont, Texas, at 1:30 p.m. to consider the following:

OPENING

- * Invocation Pledge of Allegiance Roll Call
- * Presentations and Recognition
- * Public Comment: Persons may speak on scheduled agenda items 1-2/Consent Agenda
- * Consent Agenda

Mayor Ames called the council meeting to order at 1:30 p.m.

Father Sinclair Oubre, Director of the Apostleship of the Sea Catholic Diocese of Beaumont gave the invocation. Aurora Williams, granddaughter of Councilmember Gethrel Wright-Williams led the Pledge of Allegiance. Roll call was made by Tina Broussard, City Clerk.

Present at the meeting were Mayor Ames, Mayor Pro Tem Pate, Councilmembers Wright, Samuel and Smith. Absent: Councilmember Coleman. Also present were Kyle Hayes, City Manager; Tyrone Cooper, City Attorney; Tina Broussard, City Clerk.

Proclamations, Presentations, Recognitions

“Remember the S/S Texaco OKLAHOMA Day” - March 25, 2011 - Proclamation read by Mayor Pro Tem Pate; accepted by Father Sinclair Oubre, Director of Apostleship of the Sea for Catholic Diocese of Beaumont

“YMBL South Texas Fair Days in Beaumont” - March 24 - April 3, 2011 - Proclamation read by Councilmember Smith; accepted by Henry Gaus, Chairman of the 2011 South Texas State Fair and other members of YMBL

“Kick Butts Day” - March 23, 2011 - Proclamation read by Councilmember Samuel; accepted by Nell McCullum, Julie Rogers “Gift of Life” Program

“Certification of Appreciation” - from the City of Beaumont for the Magnolia Garden Club – Read by Mayor Ames; accepted by Karen McCormick and other members of the Garden Club

Mayor Ames read the announcement regarding Executive Session being held at the conclusion of the General Business portion of the meeting.

Public Comment: Persons may speak on scheduled agenda items 1-2/Consent Agenda.

None

CONSENT AGENDA

- * Approval of minutes – **March 8, 2011**
- * Confirmation of committee appointments - **None**
- A) Authorize the acquisition of property (5690 Concord Rd.) for the Concord Road Pavement Widening Project – **Resolution 11 - 104**
- B) Authorize the acquisition of property (5710 Concord Rd.) for the Concord Road Pavement Widening Project – **Resolution 11 - 105**
- C) Authorize the City Manager to renew the loan agreement with the National Museum of the United States Air Force – **Resolution 11 - 106**
- D) Authorize the City Manager to sign a memorandum of agreement with the South East Texas Regional Planning Commission related to a software program that allows for the coordination of regional emergency operation plans – **Resolution 11 - 107**

Councilmember Samuel made a motion to approve the Consent Agenda. Councilmember Smith seconded the motion.

AYES: MAYOR AMES, MAYOR PRO TEM PATE, COUNCILMEMBERS WRIGHT, SAMUEL AND SMITH

NAYS: NONE

MOTION PASSED

GENERAL BUSINESS

1. Consider amending Section 2.03.075 of the Code of Ordinances relating to the number of Grade III Lieutenant Positions in the Police Department.

Administration recommended amending Section 2.03.075 of the Code of Ordinances to decrease the number of Grade III Lieutenant Positions from thirteen (13) to twelve (12).

Lieutenant James Clay was promoted to the rank of Captain effective January 31, 2011. This promotion created a vacancy in the Lieutenant positions of the Police Department. The Administration recommends that the vacant Lieutenant position be deleted at this time. The Civil Service Act gives to the City Council the right to prescribe, by Ordinance, the number of positions in each classification of the department.

The annual savings would be approximately \$15,000.00.

Mayor Pro Tem Pate made a motion to **ADOPT AN ORDINANCE ENTITLED AN ORDINANCE AMENDING SECTION 2.03.75 OF THE CODE OF ORDINANCES BY DECREASING THE NUMBER OF GRADE III LIEUTENANT POSITION IN THE BEAUMONT POLICE DEPARTMENT FROM THIRTEEN (13) TO TWELVE (12); PROVIDING FOR SEVERABILITY AND PROVIDING FOR REPEAL.** Councilmember Smith seconded the motion.

AYES: MAYOR AMES, MAYOR PRO TEM PATE, COUNCILMEMBERS WRIGHT, SAMUEL AND SMITH

NAYS: NONE

MOTION PASSED

Ordinance 11 - 026

2. Consider approving a change order to the Fannin Street Drainage Improvements Project.

Administration recommended approval of the change order in the amount of \$449,778.75.

City Council approved the original contract for the Fannin Street Drainage Improvements Project on January 19, 2010 in the amount of \$4,992,554.15. The original project included 8th street from Fannin to Stagg Drive. The condition of 8th Street from Stagg Drive to College Street necessitates improvements to the street and drainage system as well as updates to the water and sewer infrastructure. The change order will reconstruct 8th Street from Stagg to College from an existing two-lane asphalt roadway to a concrete roadway with two lanes in each direction and sidewalks on each side. These improvements in the amount of \$279,022.50 will be paid for with additional funding provided by a Texas Water Development Board Flood Mitigation Grant. The change order also includes furnishing and installing 195 linear feet of eight (8) inch water main and sanitary sewer connections with appurtenances in the amount of \$170,756.25 to be paid from the Capital Program (Water and Sewer Projects). Water and Sewer improvements are not eligible for funding as a part of the grant agreement.

Funds for the change order are available in the Capital Program (Water and Sewer Projects) and additional funding from a Texas Water Development Board Flood Mitigation Grant.

Councilmember Smith made a motion to **APPROVE A RESOLUTION THAT THE CITY MANAGER BE AND HE IS HEREBY AUTHORIZED TO EXECUTE CHANGE ORDER NO. 4 FOR ADDITIONAL WORK, THEREBY INCREASING THE CONTRACT AMOUNT BY \$449,778.75 FOR A TOTAL CONTRACT AMOUNT OF \$5,735,627.00.** Mayor Pro Tem Pate seconded the motion.

**AYES: MAYOR AMES, MAYOR PRO TEM PATE, COUNCILMEMBERS WRIGHT,
SAMUEL AND SMITH**

NAYS: NONE

MOTION PASSED

Resolution 11 - 108

WORKSESSION

- * Discuss the naming of the new event center building and surrounding properties

Brenda Beadle Capital Projects Manager, updated Council on the event center construction phase with completion expected by midsummer, naming the event center and surrounding properties was also discussed. Staff presented Council with several names for the event center and surrounding properties:

Town Lake Centre
The Event Centre at Town Lake
The Great Lawn at Town Lake

Staff will bring the names presented for the facility as an action item for Council to vote on at the next meeting.

COUNCILMEMBER COMMENTS

COUNCILMEMBER COLEMAN - ABSENT

MAYOR PRO TEM PATE - NONE

COUNCILMEMBER WRIGHT - NONE

COUNCILMEMBER SAMUEL - NONE

COUNCILMEMBER SMITH - NONE

CITY ATTORNEY COOPER - NONE

CITY MANAGER HAYES - NONE

MAYOR AMES - NONE

Gordon Parish **2070 Hazel Apt. #7** **Beaumont TX**

Stated that it took him three months to get a job, doesn't know what he would do if it closes

Kristi Smith **12971 Percy Ln.** **Saratoga TX**

Stated she worked in the business office at Starvin Marvin's, Mr. Atwood is an amazing man, asked that Council not shut the business down

Gina Ponzio **6090 N. Major Dr. #44** **Beaumont TX**

Stated she has been with Starvin Marvin's since they opened, one of the few jobs that will accept tattoos and piercing, she now lives on her own and pays her own bills thanks to her job, Mr. Atwood is the greatest man she has ever worked for, asked that they not take the establishment away

Rebekah Walles **435 E. Florida Ave.** **Beaumont TX**

Proud employee of Starvin Marvin's, she is a single parent that does not get child support and without live music she would not want to live in Beaumont

Wendy Carry **2399 Washington Blvd.** **Beaumont TX**

Stated that she is a single mother of three, she is able to take care of her kids on her own because of her job at Starvin Marvin's, is also able to have a schedule that allows her to attend her kids functions as well as church

Megan Bennett **5350 Old Dowlen Rd.** **Beaumont TX**

Stated that she loves her job, loves live music and does not want to go to Crockett Street

Sabrina Kendrick **854 Beauxart Garden Rd.** **Beaumont TX**

Stated that she has worked for Starvin Marvin's since it opened, she is able to save money, the Noise Ordinance doesn't just affect their business it affects other businesses in the City

Adam Smith **1590 S. Timberlane** **Vidor TX**

Happy to be working at Starvin Marvin's, prior to his employment he didn't have a job now that he is employed he is able to save money as well as attending college in the Fall

leaders should embrace growth and employment, instead of trying to tie the hands of entrepreneurship

Kathryn Anderson **627 E. Pipkins** **Beaumont TX**

Stated that on March 8, 2011, when the Ordinance was passed, it seemed that the other side did not get a fair chance, asked that Council reconsider

Jake Hooker **3750 Bayou Rd.** **Beaumont TX**

Spoke on behalf of Starvin Marvin's and enjoys working there, plays live music at Starvin Marvin's with a great crowd, this Ordinance is a huge threat to the establishment

Amanda Richie **3819 Central Blvd.** **Beaumont TX**

Supports Starvin Marvin's and enjoys working there, they work around her schedule where school is concerned, she is a full time student at Lamar University Port Arthur

Roxanne Cumpian **P.O. Box 12426** **Beaumont TX**

Glad to have Starvin Marvin's rebuild the business at that location, it is important to have the establishment and especially the music

Kirstin Wheat **9525 Gardner** **Beaumont TX**

Has only worked at Starvin Marvin's for a little over a month, loves the job and Mr. Atwood is a great person to work for, her job helps her pay for college as well as helping her mother with her bills

LeAnne Clay **7566 Park North Dr.** **Beaumont TX**

Stated that Marvin's is a great place to go to unwind, you are greeted when you walk in the door, and they have great music

John Rudzki **5550 Eastex Freeway** **Beaumont TX**

Voiced his support for Starvin Marvin's, spoke about the talent that visits the establishments and that it is one of the best venues in Beaumont

Jack Sewell **1864 Neland** **Beaumont TX**

Commented on the live music and the type of venue the restaurant is, a lot of performers come from Beaumont, a live venue should be very important to the City

Desmond Johnson 3190 Eastex Freeway #225 Beaumont TX

Stated that he has been with Starvin Marvin's since they opened, the job has helped him a lot, enjoys the people that he works with as well as enjoying the live music that is played at the restaurant

Vince Davis 7360 Plant Rd. Beaumont TX

Has worked for Mr. Atwood in the past on the construction side and supports his staying open, asked that Council not approve the Noise Ordinance

Chastity Pinney 4045 N Treadway Beaumont TX

Stated that it's an honor to work for someone like Mr. Atwood

Megan Mott 8447 FM 365 Beaumont TX

Stated that she has worked for Mr. Atwood for some time now, they are not just coworkers everyone is like family, asked that Council reconsider the Noise Ordinance

Mary Humble 6155 Daniel Dr. #55 Beaumont TX

Supports Starvin Marvin's, stated that she is sure that the Council is not trying to kill live music in Beaumont, ask that Council reconsider the Noise Ordinance that will affect everyone in a really big way

Lorena Head 2590 McFaddin Ave. #3 Beaumont TX

Supports growth, thinks that live music is necessary for positive growth in the community, an unrealistic Noise Ordinance will hurt the growth that everyone has been trying to achieve, Southeast Texas is rich in culture, if there is no outlet the City will lose a lot of young progressive residents to City's like Austin and Houston, asked that Council not approve this Ordinance

Martha Smith 2210 N. 11th St. Beaumont TX

Understands that there is a group of people present that are happy with their jobs, if the young people lose their jobs it will be the fault of Mr. Atwood, if he would turn the decibels down just a little it would be great, stated that Mr. Atwood does have property rights and so does she, all she is asking is that the sound be turned down and asked that Council keep the Noise Ordinance in place that has been passed

Annette Collins **2305 N. 10th St.** **Beaumont TX**

Asked that Council keep the Noise Ordinance in place that has been passed, stated they are not wanting anyone to lose their jobs, the residents are only asking that the music be turned down so that they can rest

Grace Mathis **4670 Hardwood** **Beaumont TX**

Stated she has had the privilege of singing at Starvin Marvin's, the talent as well as the music is very important here in the area, Beaumont should be the leader of live music venues, be the ones that embrace the culture, asked that Council keep in mind that Starvin Marvin's is located in a commercial district and those that are complaining are living in a residential area and there is a difference

Roman Green **10419 Sweetgum Ln.** **Lumberton TX**

Has been employed by Starvin Marvin's for about six months, enjoys going to work and so does everyone that works there, asked that Council reconsider their decision

Desirre' Dickenson **2570 Sweetgum #106** **Beaumont TX**

Stated that Mr. Atwood and his employees may be under the misapprehension that his business is in danger of being closed down, that is not the goal, however the problem is the noise level, stated that this week she is losing three residents of the apartment complex that she manages, her business is suffering as well, they are asking that everyone work together to come to some equitable arrangement with the noise

Brenda Garrison **210 Timberlane** **Vidor TX**

Spoke in support of Debbie and Marvin Atwood, stated that they are good kind people, this is a dream of theirs to have a restaurant with live music, asked that the community and the business try and come to some type of agreement so that this does not happen again

LaTonya Ellas **1031 Schwarner St.** **Beaumont TX**

Spoke in regards to the situation that happened in front of City hall with Chief Coffin when her Civil Rights were violated, expressed the last time she spoke with Council she made a 911 emergency call and was told that the Police Department does not come to Ward III because the citizens are not police friendly, what is she paying taxes for, stated she has exercised all of her rights that she could, wrote the City Manager and Mayor, stated no one has rebutted to her and she does not appreciate it

Dorothy Evans

2825 Arthur Lane

Beaumont TX

Represents the Experience Core and discussed their 4th Annual Walk- a- thon that will on be on April 9, 2011, at 8:30 a.m., 2200 Jefferson Dr., Port Arthur, TX, the purpose is to raise awareness, support and growth for the Experience Core, this is under the South East Texas Commission Program which is to encourage and increase physical activity among senior citizens and the community as a whole, the goal is to raise \$10,000, invited Council and anyone else that would be interested in taking part in the walk

Bruce Hoffer

2535 North St.

Beaumont TX

Commented on the Noise Ordinance, stated he has visited Starvin Marvin's a few times and has to eat indoors in order to tolerate the music, the noise level is swinging and hitting the ears of the residents, there is a big difference between the establishments that were there prior to Starvin Marvin's, the volume level sounds like it needs to be reduced some, remember soccer

Liz Wiggins

2450 N. 11th

Beaumont TX

Supports Starvin Marvin's, has a business next door, she hears the music before she closes in the afternoon, but she does not live in that area and she does not have to hear the noise in the evenings, she hates that the City Council is changing the laws all of a sudden, it has always been what it has been, maybe the noise level should be reduced a bit, the establishment was allowed to receive the permits and licenses, stated that Council knew what the establishment was going to be

Jim King

2390 Somerset

Beaumont TX

Stated that Mr. Atwood has been a friend of his for five or six years, he has been a sponsor of his TV show Fox 64, he has never played his music past mid-night and some of the residents stated that he has played until one or three in the morning and that is just not true, his TV show has covered a lot of bands in South East Texas and he would hate to see Marvin's close

Deborah Gernentz

2390 Somerset

Beaumont TX

Stated that she wrote Council and only one wrote back and that was Mayor Pro Tem Pate, commented on other venues that have businesses that play music as well as the venues downtown that play music, the seniors at Hotel Beaumont have to listen to that music, she thinks it is wrong that some get special treatment and Starvin Marvin's get treated differently

Christopher Jones **2207 Poplar St.** **Beaumont TX**

Spoke in regards to the Noise Ordinance that was passed two weeks ago, felt this was done without the consideration of the entire City of Beaumont, with this Ordinance anyone is subject to being sued just in ones general conversation, one could also be sued due to being a nuisance from music in their home being above the decibel level

Thomas Ashmore **5299 Hwy 62 N** **Orange TX**

Commented on Mr. Atwood and his business, stated that the City issued his permits and license to operate his business, the City knew going in what Mr. Atwood was going to be doing, now all of a sudden the City is changing their laws to shut him down, the City should be fair and all other businesses need to know what is going on

Shannon Sims **11950 Calahan Rd.** **Lumberton TX**

Commented on the Noise Ordinance and the volume level, her voice alone is higher than the level that the Ordinance calls for, this will include church bells, train whistles, school bells etc., those things need to be thought of

Open session of meeting recessed at 3:53 p.m.

EXECUTIVE SESSION

- * Consider matters related to contemplated or pending litigation in accordance with Section 551.071 of the Government Code:

Kimberly Thibodeaux vs. Frank Jackson, et al, Cause No. A-188,592

Claim of Hi-Way Equipment

Worker's Compensation Claim of Tracy O'Quinn

There being no action taken in Executive Session, Council adjourned.

Audio available upon request in the City Clerk's Office.



Becky Ames, Mayor



Tina Broussard, City Clerk

