



City of Rowlett Meeting Minutes City Council

4000 Main Street
P.O. Box 99
Rowlett, TX 75030-0099
www.rowlett.com

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Tuesday, January 6, 2009

5:30 PM

Municipal Building - 4000 Main Street

As authorized by Section 551.071 of the Texas Government Code, this meeting may be convened into closed Executive Session for the purpose of seeking confidential legal advice from the City Attorney on any agenda item herein.

The City of Rowlett reserves the right to reconvene, recess or realign the Regular Session or called Executive Session or order of business at any time prior to adjournment.

1. CALL TO ORDER

Mayor Harper called the meeting to order at 5:33 p.m.

Present: Mayor Harper, Mayor Pro Tem Gottel, Deputy Mayor Pro Tem Maggiotto, Councilmember Phillips, Councilmember Rushing, Councilmember Jackson and Councilmember Kilgore

CONVENE INTO EXECUTIVE SESSION

The City Council convened into closed session at 5:33 p.m.

2. EXECUTIVE SESSION

- 2.-A. The City Council shall convene into executive session pursuant to the TEXAS GOVERNMENT CODE, §551.071 and §551.087 to seek legal advice and to deliberate on economic development incentives and financial prospects for property located at or around Pecan Grove Park. (10 minutes)
- 2.-B. The City Council shall convene into executive session pursuant to the TEXAS GOVERNMENT CODE, §551.071 to seek legal advice from the City Attorney and discuss litigation related to GOFF vs. BICKERSTAFF. (5 minutes)
- 2.-C. The City Council shall convene into executive session pursuant to the TEXAS GOVERNMENT CODE, §551.071 to seek legal advice regarding the terms of an Interlocal Agreement with the North Texas Tollway Authority (NTTA) and the Texas Department of Transportation concerning the Eastern Extension of the President George Bush Turnpike / State Highway 190. (10 minutes)
- 2.-D. The City Council shall convene into executive session pursuant to the TEXAS GOVERNMENT CODE, §551.071 to seek legal advice from the City Attorney regarding dealing with citizen's complaints. (5 minutes)

RECONVENE INTO OPEN SESSION

Reconvened into open session at 6:47 p.m.

3. WORK SESSION ITEMS (6:00 P.M.)

3.-A. Discussion on the relocation of the Coyle House. (15 minutes)

Staff gave a brief update regarding the relocation of the Coyle House. The house is scheduled to be moved on January 19, 2009 to Pecan Grove Park. The services of Palco Engineering have been enlisted to look out for the City's welfare and interest; they will make sure the building is delivered in the condition that it left the former site in. To put the house into a usable and restored condition will cost approximately \$250,000 - \$260,000 and the renovation must be completed in three (3) years.

Council stated staff will gather additional information about renovating the Coyle House to be a living museum.

Staff asked for direction from Council as to whether they would like the staff to move forward and begin exploring looking at architectural firms.

Council stated the staff report identified an individual with experience with the Coyle House.

Staff stated they would keep the cost at a minimum.

3.-B. Update on Downtown Event Series. (5 minutes)

Staff gave a brief presentation regarding the Downtown Event Series. Stated the Special Events Committee and staff recommend changing the date for the "Touch a Truck Event". The event was originally scheduled to be held in March 2009 but requests that the event be moved to May 2009; stated an additional option has been considered to combine this event with a possible Memorial Day Event on May 25, 2009 and the Festival of Freedom event.

Council stated the events could be in conjunction with each other but the National holiday should honor the veterans on Memorial Day; and spoke concerning having the Festival of Freedom on July 4th.

3.-C. Discussion of Elgin B. Robertson Park. (5 minutes)

Stated the City of Dallas staff have recommended the sale of the northern tract of the park to the City of Rowlett; the Economic Development Committee for the City of Dallas requested an appraisal for the current value of the property and to determine the highest and best use of the property, the City of Dallas is undertaking a separate planning process.

- 3.-D. Discuss the public hearing for gathering input from citizens and businesses regarding smoking in public places. (10 minutes)

Mayor Harper discussed the process that would be followed during the upcoming public hearing (Item 11B).

4. DISCUSS REGULAR SESSION ITEMS

A member of Council asked for clarification regarding Item 10B.

No items were removed from the Consent Agenda to be considered individually.

CONVENE INTO THE COUNCIL CHAMBERS (7:30 P.M.)

Convened into regular session at 7:34 p.m.

5. INVOCATION

The invocation was led by Reverend Kason Huddleston, The River Church.

6. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Harper.

7. TEXAS PLEDGE OF ALLEGIANCE

The Texas Pledge of Allegiance was led by Mayor Harper.

8. PRESENTATIONS AND PROCLAMATIONS

- 8.-A. Recognizing Charlena Cearley for representing Rowlett in Japan through People to People and receiving her Gold Award through Girl Scouts.

Mayor Harper presented two proclamations to Charlena Cearley for her achievements.

- 8.-B. Proclamation recognizing Eagle Scout Dwain Cearley.

Mayor Harper presented a proclamation to Dwain Cearley for his achievements.

- 8.-C. Update from the Mayor: Financial Position, Major Projects, Operational Issues, Upcoming Dates of Interest.

Mayor Harper briefly updated the Council regarding the collection of property and sales taxes; stated the City's sales tax collection is declining at a rate of approximately 4.4%; by the end of January 2009, staff will be able to better estimate the amount of property tax collections; reserves have been built up in case of an emergency; stated Council has no intentions of a tax increase and no intentions of borrowing money; stated an audit of

sales taxes will be completed to determine if all the City's sales taxes have been received from the State.

Stated all five (5) of the segments for the President George Bush Turnpike (PGBT) are now under construction; Coyle House will be relocated on January 19th; the contract for the design-build of the Dallas Area Rapid Transit (DART) Blue Line Extension will be award on January 27th; and the City of Dallas has recommend the sale of Elgin B. Robertson Park to the City of Rowlett.

Spoke regarding several road construction projects and neighborhood revitalizations.

Stated Rockwall County is now talking about another bond proposal that will focus on parks and trails in Rockwall County. Stated Scenic Point Park is located in Rockwall County and have asked the Rockwall County Commissioners to include the Scenic Point Park in the bond program.

Lynda Humble has been selected as the new City Manager; her swearing in ceremony is scheduled for January 20th with a reception to follow. Ms. Humble will be interviewed during the January filming of "Rowlett on the Lake, on the Move".

9. CITIZENS' INPUT

1. *Laurieann Dygowski - 7242 Liberty Grove - spoke concerning the Artists 'Round Texas art program.*
2. *Reverend Kason Huddleston - 8601 Liberty Grove - spoke concerning the success of Pray Rowlett.*

10. CONSENT AGENDA

Mayor Harper explained the procedure regarding the Consent Agenda and the rights of each Councilmember and each citizen to have any consent agenda item removed to be considered individually.

No items were removed from the Consent Agenda to be considered individually.

City Secretary read items into the record.

- 10.-A. Consider approving minutes from the December 16, 2008 Regular Council Meeting.

This Matter was approved on the Consent Agenda.

- 10.-B. Consider approving a resolution to amend the Master Fee Schedule for Wet Zone, Rowlett's Family Waterpark, Daily Admission and Season Pass Fees.

This Matter was approved as RES-001-09 on the Consent Agenda.

- 10.-C. Consider approving a resolution to change the Wet Zone Water Park Operating Hours.

This Matter was approved as RES-002-09 on the Consent Agenda.

- 10.-D. Consider approving a resolution to enter into an inter-local cooperation agreement with the City of Arlington for cooperative bid and purchase of goods and services.

This Matter was approved as RES-003-09 on the Consent Agenda.

- 10.-E. Consider approving a resolution with regard to a legislative position on "Rail North Texas".

This Matter was approved as RES-004-09 on the Consent Agenda.

- 10.-F. Consider a resolution approving Change Order Number Three in the amount of seventy-two thousand three hundred twenty-six dollars and no cents (\$72,326) to the contract with J&T Excavating, for the 2005-07 alley replacement program.

This Matter was approved as RES-005-09 on the Consent Agenda.

- 10.-G. Consider approving a resolution with regard to alternate building materials for an addition to a single family home. The subject property is located at 2122 Miller Road and is a part of the Cambridge Meadow Thomas Collins Abstract 332 page 515.

This Matter was approved as RES-006-09 on the Consent Agenda.

- 10.-H. Consider approving a resolution to extend previously approved alternate building material for The River Church Addition, Phase 1, being 1.6± acres of land located on the north side of Liberty Grove Road at Princeton Road. Zoned SF-40 (Single-Family 40).

This Matter was approved as RES-007-09 on the Consent Agenda.

Passed The Consent Agenda

A motion was made by Mayor Pro Tem Gottel, seconded by Councilmember Rushing, including all the preceding items marked as having been adopted on the Consent Agenda. The motion carried by the following vote:

Ayes: 7 - Mayor Harper, Mayor Pro Tem Gottel, Deputy Mayor Pro Tem Maggiotto, Councilmember Phillips, Councilmember Rushing, Councilmember Jackson and Councilmember Kilgore

11. ITEMS FOR INDIVIDUAL CONSIDERATION

- 11.-A. Receive public comment and consider a resolution approving a Community Facilities License Agreement with AT&T Mobility Texas, LLC for the installation and operation of antennas and cables to provide telecommunication services at the Martha Lane Water Tower, and authorizing the City Manager to sign.

Mayor Harper read the item into the record.

Katie Corder, Assistant City Manager stated "I just received new developments on this issue from one of the parties with the agreement. So, I would ask that the Council to table this item to a future meeting. We can still receive public comment at this time but I would ask that it be tabled for us to look into the agreement."

Mayor Harper stated "City Attorney, do we need a motion to that affect or can we simply agree to table?"

David Berman, City Attorney replied "I think what we should do is, as Katie has indicated, accept public comments on it and then form a motion and a second to table."

Mayor Harper replied "Very good. Will do. Thank you, Katie."

Ms. Corder replied "Thank you."

Mayor Harper opened and closed the public hearing at 8:23 p.m.

Mayor Harper stated "I think we need a motion. Council, you heard what Katie had to say, is there a motion?"

A motion was made by Councilmember Phillips, seconded by Councilmember Jackson, to table this item indefinitely. The motion carried by the following vote:

Ayes: 7 - Mayor Harper, Mayor Pro Tem Gottel, Deputy Mayor Pro Tem Maggiotto, Councilmember Phillips, Councilmember Rushing, Councilmember Jackson and Councilmember Kilgore

- 11.-B. Conduct a public hearing to gather input from citizens and businesses regarding smoking in public places.

Mayor Harper read the item into the record.

Mayor Harper stated "I'd like to compare this to our Citizens' Input which is a little bit different than a public hearing. In just a few moments, I'm actually going to open a public hearing and at that time, we'll invite each of you who wishes to speak for or against the smoking in public places making your comments or statements with regard to that. We'll go through that and then I'll close the public hearing. Now the difference is that we're going to have a staff presentation and Council will be discussing among ourselves and with staff to get an understanding exactly what has been proposed. We will then invite you row by row to speak and after you finish speaking then the Council will again discuss the comments that we have heard. Unlike Citizens' Input, where we cannot discuss it, we will indeed discuss it tonight because the purpose of the public hearing is to get your input. A public hearing is not required. We chose to have a public hearing because this is one of those issues where we want to know what you think. Back in 2007, there was discussion about a non-binding referendum, well this acts as a referendum. You've made the effort to come out tonight; you're going to speak to us and share your views with us tonight on possibly expanding the ban on smoking in public places. So, first of all, I'd asked for a presentation of four (4) separate items. First, what is our current ordinance or law with regard to smoking in

Rowlett? We're going to hear that presented to us. Secondly, what did we consider in 2007 as a change to that law? We did not act on those changes back in 2007 but what were we thinking about back then? Third, the City of Dallas recently completed hundreds of hours of deliberation and decided upon a smoking ban. What are the salient points of the City of Dallas smoking ban? So that we can understand what they did. And likewise, the City of Corpus Christi just went through a very thorough investigation and also approved a smoking ban. What are the salient points associated with that? So those four (4) items are going to be presented to us now; we'll discuss those, and then I'll open the public hearing."

Alaina Ray, Assistant Director of Planning and Community Development replied "Thank you, Mayor and Council. As mentioned, Staff did put together a presentation with the information requested. The first item was the current ordinance that the City of Rowlett has. The current ordinance was adopted in 1988 and it did prohibit smoking in areas such as elevators, grocery stores, drug stores, museums, nursing homes, hospitals and those types of establishments. It did require food establishments to have separate areas for smoking and non-smoking patrons. The ordinance was considered to be revised in 2007 by Council; however, it was not adopted. It was postponed for further input. It did propose to eliminate smoking in restaurants completely regardless of the type of restaurant establishment. It also proposed to eliminate smoking in areas that were available to the public in any type of business within the city limits. And it also proposed to prohibit smoking within twenty (20) linear feet of a public entrance to a building where smoking is prohibited. Those were the main points of the revisions.

The ordinances that were recently adopted in Texas, most recently, are the City of Dallas which adopted their ordinance on December 10, 2008. It will be effective on April 10, 2009. And the City of Corpus Christi adopted theirs on December 16, 2008 and it will be effective on April 15, 2009 in order to give their businesses time to adapt to those ordinances. The City of Dallas revision...the main points of their revisions is that smoking is now prohibited in all restaurants, bars, billiard halls, and other indoor workplaces and any area within fifteen (15) feet of a business entrance. And that would include any type of patio area or entrance to restaurants and that type of thing. It does remain legal to smoke in establishments that derive at least fifteen percent (15%) of their income and revenue from tobacco products or things like cigar bars and tobacco shops.

The City of Corpus Christi expanded a previous ordinance, which had already eliminated smoking in most public places, to prohibit smoking in bars, billiard halls, and bowling alleys. They did previously ban smoking in restaurants but they included the bars, billiard halls, and bowling alleys. They also prohibited smoking within ten (10) feet of a public doorway. So that was a significant revision. Smoking in outdoor seating areas, though, at restaurants is still allowed at all restaurants within Corpus Christi. Also, the State of Texas is convening this year and it's anticipated that several bills will be presented that may address smoking prohibitions on a statewide basis. Any questions?"

Mayor Harper stated "Council, do you have any questions that you'd like to ask at this time? Any clarification of what was presented to us? We've been studying this for some time, one of the things that might be useful is to talk about the map that was provided to us this afternoon."

Ms. Ray replied "I don't have a copy of the map with me."

Mayor Harper stated "Do you want to take one copy of mine and try to project it? I think it's very interesting, audience, for this map shows what is going on around us, what cities around us have done. I think that's an important consideration. Does that show up well enough for everyone to see it? We will place that on our website; is that okay, George? We'll place this map on the website but what it shows is that around us there are different degrees of smoking bans, if you will. Some have zero (0); some have one hundred percent

(100%) much like what was described for the City of Dallas. The City of Plano, I don't have this in color, Todd, so help me. I think Plano and Dallas are the same, whereas, Rockwall is a little bit like us. Rockwall and Rowlett are about the same as one another; Rowlett is less stringent than Rockwall, I believe. Rather than try to guess at these colors, I'll just say we'll place it on the website for you to take a look at. Again Council, if there are no comments or questions about the presentation I will go ahead and move into the public hearing. Hearing none, let's do that. Now, first of all, could I see a show of hands of those that wish to speak this evening? A fair amount. I also noticed that Mr. Kilgore, who is our Councilman, wishes to speak; he'll be leaving the dais. He is a citizen and so when his time comes we'll have him present just as each of you is presenting. One of the things I want to do is to do this in an orderly manner, so I'll do it row by row. I could do it those for and then those against. I think I'd rather just do it row by row and let each of you speak. The time limit is about five (5) minutes. We'd like you to be as succinct as possible out of respect for everyone's time here, but say what you have to say. If you need six (6) minutes, no one's going to fuss at you about that but about five (5) minutes is what we would appreciate. You're going to find, I think, that towards the end of the public hearing many of you will be saying pretty much the same thing and it's quite acceptable to say very briefly what you'd wish to say because your points have already been made. Again, it's all designed to maintain decorum. We're really interested in what you have to say. So moving from my left to the right, we'll start with anyone on the front row who wishes to speak. Is there anyone who wishes to speak?" (The public hearing opened at 8:33 p.m.)

1. Suzanne Gilligan - 6004 Maple Lane - spoke in opposition.
2. Chuck Lande - 9813 Waterview Parkway - spoke neutrally.
3. Laurieann Dygowski - 7242 Liberty Grove - spoke in favor.
4. Lonnie Cornwell - 4106 Baywatch Drive - spoke in opposition.
5. Walt Parker - 9618 Waterview Parkway - spoke in opposition.
6. Robert Couche - 3114 Clearwood Lane - spoke in favor.
7. Ron Free - 7309 Kingston - spoke in opposition.
8. Stanley Pollard - 3110 Sycamore - spoke in opposition.
9. Colleen Elledge - 6317 Joel Court - spoke in opposition.
10. Paul Jokisch - 6601 Bunker Hill Court - spoke in opposition.
11. Richard Elledge - 6317 Joel Court - spoke in opposition.
12. George P. Thurman - 3600 Elm Grove - spoke in opposition.
13. Chris Kilgore - 5809 Ambassador Lane - spoke in favor.
14. Drew Howard - spoke on behalf of the Chamber of Commerce.

Mayor Harper stated "Is there anyone else that I haven't given the opportunity who wishes to speak? Not hearing or seeing anyone, I'll close the public hearing (9:11 p.m.). This is an opportunity, Council, for us to discuss among ourselves, ask questions of staff if you wish. We've got an awful lot of information tonight. Before I give you that opportunity to do some deliberation, let me tell you what I'm looking at for a calendar to see if it works for you. What I'm suggesting is that we would be needing some time; we would be remiss if we didn't give this a lot of thought and so I'm suggesting that on January 20th, we have a Work Session for this ban that's being proposed and discuss any issues publicly that we might be thinking out between now and then. And with that in mind a vote, if that is where we want to go, would be scheduled for February 3rd at the earliest; it could go longer than that. Work sessions can go longer than that. What I want to be absolutely certain is that you as Councilmembers have a lot of input to consider from all of the citizens. And by the way, those of you who are here and are watching, we received your emails, many, many emails; each of those emails have been printed out and shared with each member of the Council to be sure that they also have seen them. We get them electronically; we also got them in hardcopy (email hardcopies were given to Council. The tally sheet reflected 37 for and 16 against). So there's a lot of information there and there may be some questioning that we have, some challenges that we have with some of the things that we've heard tonight. So the opportunity to talk about that in some reform now and in greater detail on the 20th; is that alright if we proceed in that manner? All right, that being the case, is there any comments or questions this evening that we want to start deliberating about?"

Mayor Pro Tem Gottel replied "Mayor, I just have a question for staff if we could start there."

Mayor Harper stated "Go ahead, sir."

Mayor Pro Tem Gottel stated "Alaina, we...my concern last time is the same concern that I have again. It has to do with our businesses. They've invested a lot of money; we've worked very hard for the economic development perspective and not so much for the businesses that haven't come but the ones that are here, we want to keep those businesses. Can you tell me what things that we have done in terms of...I know that there has been some contact with those folks. I see some area businesses here tonight but my real concern is, I don't see a lot of area businesses here. I'd like to hear what the Chamber really has to say. I know we asked them in our Economic Development Advisory Board meeting to go out and spread the word. I honestly had hoped that we would have seen a lot more turnout from the businesses because ultimately when I think about my decision personally, I'm really taking into account very heavily what the businesses in this community have to say and the impact financially it will have on those specific businesses."

Ms. Ray replied "Yes, sir. I believe that our Economic Development department, as well as, our Public Information Officer are continuing to contact to discuss this issue with the existing businesses. As well, I know that Ben White, the Economic Development Director is continuing to do research for other areas and other States that have already enacted these types of ordinances to see what type of effect it has had on their existing businesses, as well as, their potential for enticing new businesses to the area. So that is ongoing research that is being done and I know that staff will be presenting that to the Council at the Work Session in January."

Mayor Pro Tem Gottel stated "Thank you very much. I have a question. Drew, I don't mean to put you on the spot but I see Drew Howard here and he is a representative from the Chamber and he's also on the Advisory Board. Can you comment at all on what the area businesses or do you have any information about the efforts that the Chamber has done or any comments back from the local area businesses?"

Mayor Harper stated "I think technically I need to reopen the public hearing, Mr. Attorney?"

Mayor Pro Tem Gottel stated "Do we need to do that?"

Mr. Berman replied "You can if you want."

Mayor Harper stated "Well, in order for him to make a comment, I believe we have to have it as part of the public hearing. So why don't we go ahead. These are things that we have to do in order to follow our own rules, so we will now reopen the public hearing (9:15 p.m.). Drew, please respond."

Drew Howard replied "As far as I know, Mary Alice did send out an email to all Chamber members telling them about tonight's public hearing. As far as feedback, I don't know of any."

Mayor Pro Tem Gottel replied "Okay."

Mayor Harper stated "Thank you very much. We're at a point where we're really violating our own rules with regard to the public hearing. We're not to be deliberating with the audience and I do apologize for that. I don't make up those rules; those are rules that we have in place. At any rate, I've got the public hearing open; anyone who hasn't spoken who wishes to speak, we want to hear from you. We just don't want to have a mass conversation; it doesn't work that way. Is there anyone who hasn't spoken who wishes to

speak? Okay, I am closing the public hearing (9:16 p.m.). Council, any other questions among ourselves?"

Councilmember Rushing stated "Mayor, just one statement. Just for information purposes, we were asked earlier if we were going to vote tonight. One of the reasons we are not is we haven't compiled an ordinance."

Mayor Harper stated "That's right."

Councilmember Rushing continued "There is no ordinance on the table for us to vote. Your input tonight is one of the things that will be considered as the ordinance is put together. We could do everything from ban it citywide to making you put a wall between separate sections in your business; we could ban it in City parks; we can do a lot of different things and that's what that work session will be for. We'll have an opportunity to take all of this into consideration as to whether there is a partial ban, city owned property, public property, restaurants, and things like that. And that's our next step is to put that information together and create an ordinance and then there could be citizens' input on the day that's actually passed; whether it's an individual item or a consent item. Again, there would be more opportunities for people to speak once it is written. Once we do have an ordinance that we are considering, that again would be included in our agenda packet on the website for anyone to read."

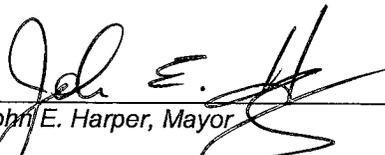
Mayor Harper stated "Ms. Rushing, again to repeat, February 3rd is not written in stone. If we need more time, we'll take more time. I'm just laying out January 20th as our next session to discuss getting staff input and then February 3rd would be when we would vote if we're ready at that time. Anybody else wish to weigh in? It's been a long night. Audience, thank you very, very much for all of you, pros and cons, it's so important that we hear from you. We appreciate you very much."

TAKE ANY NECESSARY OR APPROPRIATE ACTION ON CLOSED/EXECUTIVE SESSION MATTERS

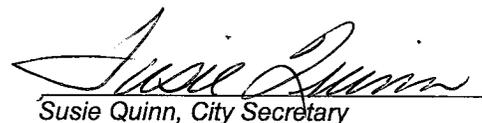
No action was taken during the Executive Session.

12. ADJOURNMENT

Mayor Harper adjourned the meeting at 9:18 p.m.



John E. Harper, Mayor



Susie Quinn, City Secretary

Date Approved: January 20, 2009