

STATE OF TEXAS §
COUNTY OF POLK §
CITY OF LIVINGSTON §

MINUTES
REGULAR MEETING AND
PUBLIC HEARING
CITY COUNCIL
January 14, 2020
5:00 P.M.

The City Council of the City of Livingston, Texas convened in regular session in Council Chambers at City Hall at 5:00 P.M., January 14, 2020, with the following members present:

Judy B. Cochran)	Mayor
Alan Cook)	Councilmembers
Raymond Luna)	
Elgin Davis)	
Marion 'Bid' Smith)	
Clarke Evans)	
Billy S. Wiggins)	City Manager
Ellie Monteaux)	City Secretary
James Wright)	City Attorney

and the following others present:

Josh Mohler)	Fire Marshal
Ricky Taylor)	Texan EMS
Police Chief Dennis Clifton)	Livingston Police Department

Page 2, City Council Meeting Minutes of 01/14/2020

Mayor Cochran called the meeting to order at 5:00 P.M. and called on Alderman Evans to open the meeting with prayer and the pledges.

It was moved by Alderman Evans and seconded by Alderman Cook that the minutes of the regular meeting of December 10, 2019 be approved. All present voted aye.

Alderman Davis filed a Disclosure Affidavit on Item II. Public Hearing on Determination of Unsafe And/Or Dilapidated Building and Cleanup of Property - 915 School Street and Item III. Discussion and Consider Possible Action on Final Order on Determination of Unsafe And/Or Dilapidated Building and Cleanup of Property - 915 School Street and did not participate in the decision or vote involving these items.

Mayor Cochran opened a Public Hearing at 5:01 P.M. regarding the possible determination as an unsafe and/or dilapidated building, a 28 ft. by 56 ft. double wide Southwind manufactured home, serial no. CSS002704tTXA/B, label no. HWC0300284/285, located at 915 School Street, in the City of Livingston, Texas, owned by Reginald P. Hill, and for the ordering of the cleanup of the property due to the accumulations of weeds, rubbish and abandoned personal property.

Fire Marshal/Code Enforcement Officer Josh Mohler and Alderman Elgin Davis were sworn as witnesses. Reginald P. Hill was not present at the hearing.

Josh Mohler presented his report to Council concerning the possible determination as an unsafe and/or dilapidated building, a 28 ft. by 56 ft. double wide Southwind manufactured home, serial no. CSS002704tTXA/B, label no. HWC0300284/285, located at 915 School Street, in the City of Livingston, Texas, owned by Reginald P. Hill, and for the ordering of the cleanup of the property due to the accumulations of weeds, rubbish and abandoned personal property. The manufactured home located on the above property is an unsafe building under the City's Unsafe Building Code, and is in violation of Section 10-209 of the Code of Ordinances of the City of Livingston because the structure located on the property is not maintained in a safe and sanitary condition; the property was found to be overgrown with weeds, and to have excess amounts of debris and rubbish, in violation of Article II (Nuisances) of Chapter 20 (Environment). Mr. Mohler confirmed that notices had been published in the Polk County Enterprise, posted on the property, and mailed by certified mail to the owner of the property. Mr. Mohler provided Council with the most recent pictures of the property advising that the property continues to be unsafe, unsanitary and a public nuisance.

Alderman Elgin Davis, the owner of the land, testified that he is in agreement with the findings of Mr. Mohler and is in agreement that the manufactured home should be removed from the property and that clean up of the property should be completed.

Mr. Mohler recommended 1) that the property owner be given thirty days for the complete demolition of the manufactured home and removal of the debris, weeds, rubbish and abandoned personal property from the property; 2) that the City proceed with demolition and clearing of the property if the owner fails to act within thirty (30) days; and 3) that the City's costs be assessed against the property owner and secured by a lien on the property.

There being no one present speaking for or against the manufactured home owner and no further comments to be received in the public hearing, Mayor Cochran declared the public hearing closed at 5:28 P.M.

Based on the evidence presented at the Public Hearing and as recommended by the City Attorney and Fire Marshal/Code Enforcement Officer, it was moved by Alderman Cook and seconded by Alderman Smith that the following Final Order be issued:

- 1) That the Council find that the 28 ft. by 56 ft. double wide Southwind manufactured home, serial no. CSS002704tTXA/B, label no. HWC0300284/285, located at 915 School Street, in the City of Livingston, Texas, owned by Reginald P. Hill, to be dilapidated, substandard, unsafe and a public nuisance, that the conditions described in the testimony of Josh Mohler exist and there is a danger to the life, health, property or safety of the public, and that it is not feasible to make repairs to the structure.
- 2) It is ordered that Reginald P. Hill is to immediately secure the home to prevent unauthorized entry, and to demolish said structure and remove all demolition debris within 30 days. All such rubbish and debris must be taken to the Polk County Landfill for disposal, and delivery tickets from the Landfill evidencing such disposal be presented to the City's Community Development Department within said 30 days. If the structure is not demolished and all debris removed within said 30 days, the City shall cause the structure to be demolished, and all debris removed, and the City shall place a lien on the property to recover the City's costs.

- 3) That the Council find that the accumulation of weeds and grass in excess of 12 inches in height, and brush, grass, refuse, rubbish and abandoned personal property on the property constitutes a public nuisance and is in violation of the City's ordinances.
- 4) It is ordered that Reginald P. Hill to immediately remove all weeds and grass in excess of 12 inches in height, and all brush, refuse, rubbish and abandoned personal property on the property within 30 days. All such weeds, grass, brush, refuse, rubbish and abandoned personal property must be taken to the Polk County Landfill for disposal, and delivery tickets from the Landfill evidencing such disposal be presented to the City's Community Development Department within said 30 days. If all such weeds, grass, brush, refuse, rubbish and abandoned personal property are not removed within said 30 days, the City shall cause all such weeds, grass, brush, refuse, rubbish and abandoned personal property to be removed, and the City shall place a lien on the property to recover the City's costs.

Discussion ensued regarding the lien to be placed on the property. The motion prevailed by the following vote: AYES: Aldermen Evans, Luna, Smith and Cook. NOES: None. ABSTENTION: Alderman Davis. The Final Order of Abatement related to Case No. CE-2018021 shall be attached with these minutes.

The City Manager introduced a resolution approving the terms of a 50-year Raw Water Supply Contract between the Trinity River Authority of Texas and the City of Livingston and authorizing the execution of such contract by the Mayor of the City of Livingston. It was moved by Alderman Davis and seconded by Alderman Evans that the resolution, as introduced, be approved and adopted. All present voted aye. The resolution, as approved, is captioned as follows:

"RESOLUTION NO. 577

A RESOLUTION APPROVING THE TERMS OF A 50-YEAR RAW WATER SUPPLY CONTRACT BETWEEN THE TRINITY RIVER AUTHORITY OF TEXAS AND THE CITY OF LIVINGSTON, AND AUTHORIZING THE EXECUTION OF SUCH CONTRACT BY THE MAYOR OF THE CITY OF LIVINGSTON, TEXAS."

The City Manager presented a new Continuation of Coverage Administrative Agreement for TML Health Benefits Pool, formerly known as TML MultiState IEBP, to administer the Continuation of Coverage (COBRA) for the City. It was moved by Alderman Cook and seconded by Alderman Davis that the execution of the Continuation of Coverage Administrative Agreement with the TML Health Benefits Pool for the administration of COBRA for the City's employee group health plan be authorized, effective for fiscal year 2019/2020. All present voted aye.

It was moved by Alderman Cook and seconded by Alderman Smith that the accounts over \$500.00, as submitted, be approved for payment. All present voted aye.

The City Manager presented Pay Request No. 4 of Maguire Iron, Inc. in the amount of \$384,828.19. Kirk Bynum, Project Manager with the Brannon Corporation, has reviewed the pay request and recommended approval. This amount represents fabrication of the two elevated water storage tanks. Based on the recommendation of the City Manager and Project Engineer, it was moved by Alderman Evans and seconded by Alderman Cook that Payment Request No. 4 in the amount of \$384,828.19 to Maguire Iron, Inc., payable from local funds, be approved as presented. All present voted aye.

The City Manager presented Pay Request No. 5 of TraC-n-trol, Inc. in the amount of \$48,949.70 for TxCDBG Contract No. 7218290 Sewer Improvements SCADA Project, payable from local funds, for approval. This amount represents installation and start-up of the planned SCADA improvements at all but six of the lift stations and/or SCADA sites across the City. The contractor continues to work on programming and screens for the system. For grant administration purposes, a funding request will be submitted by the grant administrator to the Texas Department of Agriculture on behalf of the City of Livingston as part of the TxCDBG Contract No. 7218290 Sewer Improvement SCADA Project. Budgeted funds for the construction portion of the grant have been utilized; therefore, this payment will be made from local funds for this portion of the project. It was moved by Alderman Luna and seconded by Alderman Davis that Pay Request No. 5 of TraC-n-trol, Inc. In the amount of \$48,949.70 for TxCDBG Contract No. 7218290 Sewer Improvements SCADA Project, payable from local funds, be approved as presented. All present voted aye.

The City Manager presented TDA Drawdown Request No. 6 in the amount of \$4,715.00 for TxCDBG Contract No. 7218290 Sewer Improvements SCADA Project for approval. This amount represents engineering costs from The Brannon Corporation for the months of September, October, and November 2019. A funding request will be submitted by the grant administrator to the Texas Department of Agriculture

on behalf of the City of Livingston for funding of this pay request as part of the TxCDBG Contract No. 7218290 Sewer Improvement SCADA Project. Based on the recommendation of the City Manager, it was moved by Alderman Cook and seconded by Alderman Evans that Texas Department of Agriculture Drawdown Request No. 6 in the amount of \$4,715.00 for TxCDBG Contract No. 7218290 Sewer Improvements SCADA Project be approved, payable upon receipt of grant funds from the Texas Department of Agriculture. All present voted aye.

Mayor Cochran called a Public Hearing for February 11, 2020 at 5:00 P.M. regarding the possible determination as an unsafe and/or dilapidated building, a 60 ft. by 14 ft. mobile home, Polk County Tax Account ID 26582, located at 1105 Sprott Street #11, in the City of Livingston, Texas, said mobile home allegedly owned by Jesus Olivares or his unknown heirs or assigns, or by E. W. Jones Family Limited Partnership, or any other unknown person, firm or corporation claiming ownership of said mobile home.

Mayor Cochran called a Public Hearing for February 11, 2020 at 5:00 P.M. regarding the possible determination as an unsafe and/or dilapidated building, a structure located at 807 W. North Street in the City of Livingston, Texas, owned by L2:49 Investments, LLC, and the cleanup and removal of weeds, rubbish, garbage and abandoned person property at said property, said property being described as Tract Two in deed dated May 16, 2018 from Freddy Duff and wife, Jessie B. Duff to L2:49 Investments, LLC, recorded in Volume 2155, Page 051 of the Office Public Records of Polk County, Texas.

The City Attorney presented a proposed Show Cause Notice in Cause No. CE-2017004 related to the lack of timely compliance with the Final Order of Abatement issued by Council on June 11, 2019. Mayor Cochran issued a Show Cause Notice to all interested parties to appear February 11, 2020 at 5:00 P.M. and explain why compliance with the June 11, 2019 Final Order of Abatement has not occurred and why abatement of the nuisance by the City should not take place immediately.

(Police Chief Dennis Clifton entered the meeting and Josh Mohler retired from the meeting.)

The City Manager reported on the following items:

- A) Update on Current Projects and Development - The City Manager provided the Council with an update of current projects and development.

B) Upcoming Events

- ▶ Livingston Municipal Library - The library is closed for inventory through January 18th and will re-open to the public on Tuesday, January 21st.
- ▶ 20th Annual Multicultural Festival - Monday, January 20th at 5:00 P.M. at Livingston High School
- ▶ Retirement Reception for Police Chief Dennis Clifton - Friday, January 24th at the Public Works Building from 2:00 to 4:00 P.M.
- ▶ Livingston-Polk County Chamber of Commerce Annual Banquet - Thursday, January 30th at the Polk County Commerce Center
- ▶ City of Livingston Employee Appreciation Dinner - Friday, February 7th at 5:30 P.M. at the Public Works Building

(Ricky Taylor retired from the meeting.)

Mayor Cochran called the Council into executive session at 5:59 P.M., pursuant to Texas Government Code Section 551.074 (Personnel - Deliberation of the Employment and/or Appointment of an Employee).

Council reconvened in open session at 6:16 P.M.

There being no further business to come before the City Council, it was moved by Alderman Cook and seconded by Alderman Luna that the meeting be adjourned at 6:16 P.M. All present voted aye.

SIGNED:



Judy B. Cochran, Mayor

ATTEST:



Ellie Monteaux, TRMC, CMC
City Secretary/Assistant City Manager

CAUSE NO. CE-2018021

**AN ORDER OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON,
TEXAS WITH REGARD TO THE ABATEMENT OF THE UNSAFE AND
DILAPIDATED STRUCTURE LOCATED AT 915 SCHOOL STREET,
LIVINGSTON, TEXAS AND THE ABATEMENT OF PUBLIC NUISANCES
ON SUCH PROPERTY**

FINAL ORDER OF ABATEMENT

WHEREAS, on the 14th day of January, 2020, at 5:00 P.M., the City Council of the City of Livingston convened and opened a Public Hearing to hear testimony concerning the consideration of a 28 ft. by 56 ft. Southwind doublewide manufactured home (the "Home"), bearing serial no. CSS002704TXA/B, and label no. HWC03000284/285, Polk County Tax ID 44496, as a public nuisance and as a dilapidated and unsafe building, pursuant to Sections 10-209 and 10-210 of the Code of Ordinances of the City of Livingston, Texas, and Chapter 214 of the Texas Local Government Code; and

WHEREAS, the manufactured home made the subject of the Public Hearing is located 915 915 School Street, on certain real Property (the "Property") within the City of Livingston as described as:

Lot Seven (7), Block One (1) of the Shady Oaks Addition to the City of Livingston, Polk County, Texas, described in a deed recorded in Volume 1821, Page 124 of the Polk County Official Records; and

WHEREAS, all requirements of law, and of the Code of Ordinances of the City of Livingston concerning notices to all interested parties were complied with and all proper interested parties were notified of the time and date of the Public Hearing; and

WHEREAS, the owner of the Property, Elgin G. Davis, appeared at the Public Hearing;

WHEREAS, although notified of the hearing, neither the lienholder on the Home, Greenpoint Credit, LLC, or the Owner of the Home, Reginald P. Hill, appeared at the Public Hearing; and

WHEREAS, the City Council proceeded to hear evidence and testimony in this cause by Code Enforcement Officer Josh Mohler, and the City Council takes notice of and incorporates all evidence presented to the City Council, including the issuance of notices, for its consideration of this matter and incorporates the same into this Order for all purposes; and

WHEREAS, based upon the evidence presented, the City Council finds:

1. the owner of the Property is Elgin G. Davis;

2. the owner of the manufactured Home is Reginald P. Hill;
3. the lienholder on the manufactured Home is Greenpoint Credit, LLC
4. the Ordinance violations relate to the public health and safety;
5. the manufactured Home is unoccupied and is not secured against unauthorized entry;
6. the manufactured Home is in such a condition as to constitute a public nuisance, that constitute hazards to the health, safety and welfare of the public and are likely to endanger persons and property;
7. the manufactured Home is unsanitary, constitutes a fire hazard, and is dangerous to human life, is unfit for human habitation, which in relation to existing use, constitutes a hazard to safety or health by reason on inadequate maintenance, dilapidation or abandonment;
8. conditions on the real Property consist of the dilapidated, unsafe and abandoned manufactured Home, accumulation of weeds and grass in excess of 12 inches in height, and brush, refuse, rubbish and abandoned personal property;
9. the real Property and manufactured Home made the subject of this action are located within the territorial limits of the City of Livingston, Polk County, Texas and were properly identified; and

WHEREAS, based upon the evidence presented, the City Council finds that the manufactured Home on the Property is unsafe, dilapidated, substandard, unfit for human habitation, constitutes a hazard to the health, safety and welfare of the public and is likely to endanger persons and property; and

WHEREAS, based upon the evidence presented, the City Council finds that the accumulation of weeds and grass in excess of 12 inches in height, and brush, refuse, rubbish and abandoned personal property on the real Property are public nuisances in violation of City ordinances;

It is **THEREFORE ORDERED** that, within thirty (30) days from the date of this Order, Elgin G. Davis and Reginald P. Hill (collectively, the "Owners"), at Owners' cost, shall cause the manufactured Home on the Property to be demolished and all debris from such demolition removed within said thirty (30) days. All debris resulting from such demolition shall be taken to the Polk County Landfill located at 3477 FM 942 West, Leggett, Texas 77350 for proper disposal. The Owners shall present to the City Community Development Department receipts from the Landfill evidencing such proper disposal of the debris.

It is **FURTHER ORDERED** that if the demolition of the manufactured Home does not occur by action of the Owners within said thirty (30) days, the City of Livingston shall cause the

structure to be demolished and all demolition debris to be removed, shall assess all costs of demolition to the Owners, and if not paid, shall record a lien against the Property to recover the cost of demolition. The costs shall bear interest at the rate of 10% per annum until paid.

It is **FURTHER ORDERED** that, within thirty (30) days from the date of this Order, Elgin G. Davis and Reginald P. Hill (collectively, the "Owners") shall cause the removal of the accumulation of weeds and grass in excess of 12 inches in height, and brush, refuse, rubbish and abandoned personal property on the real Property within said thirty (30) days. All such materials resulting from such removal shall be taken to the Polk County Landfill located at 3477 FM 942 West, Leggett, Texas 77350 for proper disposal. The Owners shall present to the City Community Development Department receipts from the Landfill evidencing such proper disposal of the materials.

It is **FURTHER ORDERED** that if the accumulation of weeds and grass in excess of 12 inches in height, and brush, refuse, rubbish and abandoned personal property are not removed by the action of the Owners within said thirty (30) days, the City of Livingston shall cause the accumulation of weeds and grass in excess of 12 inches in height, and brush, refuse, rubbish and abandoned personal property to be removed from the real Property and shall assess all costs of removal to the Owners, and if not paid, shall record a lien against the Property to recover the cost of removal. The costs shall bear interest at the rate of 10% per annum until paid.

ENTERED as the action of the City Council of the City of Livingston, Texas as of the 14th day of January, 2020.



JUDY B. COCHRAN, Mayor

ATTEST:



ELLIE MONTEAUX, TRMC, CMC
City Secretary/Assistant City Manager

