

**MINUTES
SPECIAL MEETING
CITY OF NASSAU BAY
CITY COUNCIL
FEBRUARY 25, 2008
7:00 PM**

MEMBERS OF COUNCIL PRESENT: Mayor Don Matter and Councilmembers John Haugen, Bette Johnson, Ron Swofford, David Braun, Mark Denman, and Daniel Weber.

MEMBERS OF COUNCIL ABSENT: None.

OTHER CITY OFFICIALS PRESENT: City Manager John Kennedy, City Attorney Dick Gregg, Jr., City Secretary Pat Jones, Finance Director Deborah Pattison, Building Official Larry Boles, and Planning Commission Chair Roscoe Lee.

PRESIDING: Mayor Matter.

CALL TO ORDER

Mayor Matter called the meeting to order at 7 pm.

ROLL CALL

Mayor Matter announced there was a quorum with all Councilmembers present.

OLD BUSINESS

Ordinance Amending Zoning Ordinance, Granting a Planned Unit Development

City Secretary Jones read the caption of the ordinance (second and final reading):

CAPTION

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NASSAU BAY, TEXAS, AMENDING THE ZONING ORDINANCE BY GRANTING A CONCEPTUAL PLANNED UNIT DEVELOPMENT SOUGHT BY GRIFFIN PARTNERS NASSAU BAY LLP ON APPROXIMATELY 31.48 ACRES, CURRENTLY CALLED THE SPACE CENTER PLAZA-PLANNED UNIT DEVELOPMENT AS RECOMMENDED BY THE PLANNING COMMISSION, WHICH ACREAGE IS CURRENTLY ZONED SC-1 (SPECIALIZED COMMERCIAL DISTRICT 1) OR SC-2 (SPECIALIZED COMMERCIAL DISTRICT 2) OR PO (PUBLIC OWNERSHIP) WHERE THE FORMER CITY HALL IS LOCATED, DEPENDING ON ITS LOCATION IN THE PROPOSED DEVELOPMENT.

(Said Ordinance is of record in Ordinance Book No. 11 of the City of Nassau Bay, Texas, being Ordinance No. O2008-637.)

It was moved by Councilmember Johnson, seconded by Councilmember Swofford, that the ordinance be approved on its second and final reading.

Planning Commission Chairman Lee said there had been no deviations or changes since the ordinance was considered for first reading.

Councilmember Denman said he wanted to go on record that he supported the apartments being converted to condos should the opportunity present itself.

City Manager Kennedy said the City had received a letter today from Vince Parks, Executive Director of Ministry, Gloria Dei Lutheran Church, in support of the redevelopment as proposed. Mr. Kennedy read the letter in its entirety and stated the City appreciated Gloria Dei's support.

Continuing his comments, City Manager Kennedy said this has been a long process, starting in 2004 when the Council appointed an Urban Planning Advisory Committee (UPAC) to develop some development principles. This project goes a long way toward achieving some of the items that were envisioned by the UPAC. The City can expect a much stronger property tax base, increased sales tax revenue, and increased hotel tax revenue. New retail and restaurant opportunities will be enjoyed not only by our residents but also by people outside the City.

Mr. Kennedy said he really believed that this was probably one of the more historic moments in our City's history when the Council has the opportunity to change the course of our City from a downward spiraling commercial area to improving those property values. The property that the Griffins purchased is on our tax rolls for less than \$10m. When the project is complete, it will be worth \$150m – a fifteen fold increase.

Closing his comments, City Manager Kennedy congratulated the Staff and Planning Commission for their hard work and congratulated the City Council for having the wisdom to lead us through this process.

There being no further discussion, upon call for the question, motion passed 7 – 0.

Mayor Matter asked City Attorney Gregg for his comments, asking him if he had any concerns. Mr. Matter said we have gone through the required public notices for both the Planning Commission and Council. Are there any other obstacles that we need to take care of, Mayor Matter asked.

Mr. Gregg said no, that this is the final step in the approval under Texas zoning laws, and the courts have held that a decision of this type is not subject to the referendum power of the City's charter. So, this is final action, City Attorney Gregg said.

NEW BUSINESS

Resolution Stating Council's Intent Regarding Not Expending Funds from Issuance of Certificates of Obligation for Demolition, Asbestos Abatement, and Renovation of Buildings

City Secretary Jones read the caption of the resolution:

CAPTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NASSAU BAY, TEXAS, STATING THE CITY COUNCIL'S INTENT & COMMITMENT REGARDING NOT EXPENDING FUNDS FROM THE ISSUANCE OF CERTIFICATES OF OBLIGATION FOR DEMOLITION, ASBESTOS ABATEMENT, AND RENOVATION OF BUILDINGS.

(Said Resolution is of record in Resolution Book No 16 of the City of Nassau Bay, Texas, being Resolution No. R2008-1773.)

Mayor Matter asked City Manager Kennedy to update everyone on this matter.

City Manager Kennedy said he would like to walk everyone through the series of events that led to the decision to put this resolution before Council at this meeting.

On October 8 of last year, Council passed the budget for Fiscal Year 2008, Mr. Kennedy said. There were meetings and discussions wherein the capital improvements program was considered. Referring to page 10.05 of the budget, Mr. Kennedy said the capital fund appropriations are listed that were discussed. We discussed that certificates of obligation (c/o's) would be issued this year to support the \$1m program. Projects listed are for parks, water, general government, planning and redevelopment, equipment, drainage, and a \$30k bond issue cost. The total came to \$1,030,000.00, Mr. Kennedy said. The budget was available for public inspection as early as the first Monday in August, Mr. Kennedy said, so it's been that long ago that we agreed to these capital projects appropriations.

Included in the budget and these capital fund appropriations, City Manager Kennedy continued, are some items that have become controversial. They were named as: 1) relocation of city hall to this building that we now occupy; 2) planning for a new public safety building that we have long needed; 3) planning projects; and 4) redevelopment projects. All of those were in the budget that was passed and agreed to.

We knew, Mr. Kennedy said, that we would fund most of our development costs from the tax increment reinvestment zone (TIRZ), so the following month when Council approved the Preliminary Project plan and the Reinvestment Zone Financing Plan, we included in this document provisions where the City would be reimbursed for any redevelopment costs that we experienced as a result of the redevelopment process that we are going through today. Referring to the booklet, that amount is up to \$1.5m, he said, that the City can be reimbursed from the TIRZ. Also included in this document is a provision for construction of a public safety building in an amount of \$6.5m.

City Manager Kennedy said the TIRZ is the mechanism that Council put into place to finance the redevelopment costs so these costs did not wind up on the backs of our taxpayers. Because there was a lot of misunderstanding and criticism about how the City was funding the redevelopment costs, we tried to respond to that. Several flyers were going around, one of them entitled "Does This Scare You?" and it spoke about an \$8m TIRZ reimbursement that the City had agreed to as part of the redevelopment.

While trying to explain to the residents what we were doing with redevelopment, we produced a document, entitled "Community Education on Redevelopment" and on page

10 of that document, we addressed the \$8m the flyers were speaking about. We did not go back and explain that we had included in our budget process some redevelopment costs that the City was going to front, but which would later be reimbursed by the TIRZ. We have been called to task on that, and we should have been clearer, Mr. Kennedy said.

City Manager Kennedy said that, to confuse matters further, when it came time to issue the c/o's to pay for some of these capital costs, a line was included in our published legal notice which stated our funding from the c/o's would be used for demolition, asbestos abatement, and renovation of buildings. It was never our intent to do that; it was listed by mistake, Mr. Kennedy said. So, I am asking Council to pass a resolution this evening which more clearly states the reasons we are issuing the c/o's – to pay for our capital projects.

We have, however, Mr. Kennedy continued, always written our advertisement very broadly. This gives us some minimum amount of needed flexibility should priorities change through the year. We did not, however, intend to list this use, and it was not discussed during the budget process.

Mayor Matter commented to further clarify that this is not the first year the City has done a bond issue of this nature. A bond issue has taken place the last nine years and is part of the \$.65 cent tax base. M&O, maintenance and operation, is a portion of that. Debt service is also a portion of that – to pay off floating debt. We have done this every year, using the same procedure, to pay down debt on fire equipment, police vehicles, and other major projects in the City. So, this is nothing new, Mayor Matter said.

City Attorney Gregg added that the City was not changing its notice which still had that language. The City is making a commitment that, even though it had the power to spend the money, it will not spend funds for that purpose. You are not restarting or re-noticing. The City is merely saying that, even though it could spend it for that purpose, it will not.

Councilmember Haugen asked if this action superseded the notice.

City Attorney Gregg advised it superseded, but did not change the notice.

Councilmember Denman asked what our bond issues had been over the years. Mr. Denman said he seemed to think this was about average and not over the top of previous amounts.

City Manager Kennedy said he seemed to recall they had ranged from approximately \$300k to approximately \$1.9m. It ranges, depending on our capital needs for that year.

Councilmember Denman said this, then, by no means stands out or sets any kind of record from what we have done before. This is pretty much standard operating procedure.

Mr. Kennedy agreed, saying the City's debt obligation, overall, is very favorable, and the City does not have a lot of debt because Council has always insisted that any debt we issue be short-term debt.

Councilmember Denman said he recalled that, historically, the bond rates were always pretty low.

City Manager Kennedy said the bond counsel who was at the meeting a month or so ago said he was expecting about 4%.

There being no other questions by Council, Mayor Matter called for a motion.

It was moved by Councilmember Johnson, seconded by Councilmember Denman, that the resolution be approved.

Motion passed 7 – 0.

Acceptance of City's Annual Audit for Fiscal Year Ending September 30, 2007 as Presented by Sandersen Knox & Belt, CPA

City Manager Kennedy introduced Robert Belt, noting that the firm's auditors had been in City Hall over the last several weeks, gathering information. The finalized audit is an important part of the City's upcoming bond issuance, Mr. Kennedy said.

Mr. Belt said that, even though the copy before Council said "draft," there were only some minor grammatical changes to be made to the final version and nothing substantial would be changed.

Mr. Belt said he was pleased to announce a clean, unqualified opinion which is the highest level of assurance that can be provided to the City that all disclosures required by generally accepted accounting principles have been included and that the financial statements are materially correct.

Referring to page 26, Mr. Belt discussed some of the fund balances, noting that fund balances are one of the key numbers that credit rating agencies look at to determine the healthiness of a governmental entity. At a fund balance of \$1.2m as a percentage of your total expenditures of \$3.3m, Mr. Belt said this was a very healthy fund balance to have, so the City is in very good shape financially from your fund balance perspective. Mr. Belt briefly discussed other highlights of the audit.

Mr. Belt said a Management Letter would be forthcoming as well as a new requirement, a Required Auditor Disclosure Letter. The City will be receiving both of these in the near future before the next Council meeting, Mr. Belt said. A new auditing standard is also required this year in the Management Letter. Basically, it requires more information to be in this letter than there has been in years past, he said. Previously, as your auditors, we could use some discretion to tell you about things we thought important. Now, we have to talk about things, even if you can't do anything about them. For example, segregation of duties is one of them. It is pretty much understood, in a city of your size, that there is no way to come up with the optimal segregation of duties to prevent every type of event that could occur from occurring. So, Mr. Belt said, there will be some inherent risk of a city of your size. Because of your limited staff size, you can't take care of every possible contingency. Therefore, in years past, we wouldn't have commented on something like this because you wouldn't have been able to do anything about it. Under new requirements, there will be more comments like this than in years past, but we have tried

to put comments in that will help you weed out what we think is relevant and the comments that you should actually do something about

Mr. Belt offered to answer any questions from Council

Mayor Matter said he understood the City had received a clean audit, but asked if there were any other items the City should be concerned about.

Mr. Belt responded that there would be some matters in the Management Letter but that none of them were about significant issues.

Councilmember Denman asked how the City ranked in its positive variance of \$651k based on overall revenues with other cities of our size.

Mr. Belt said comparisons from city to city aren't done, but if a city accomplished its goals in budgeting then the variance is a positive. If, for example, you delayed the purchase of a fire truck, then the variance shouldn't be looked upon as that positive. For the most part, it is an indication that your revenues came in higher than expected and you were able to control your expenditures.

Mr. Denman asked what the variance was in past years.

City Manager Kennedy asked Finance Director Pattison to have this information available at the next Council meeting

It was moved by Councilmember Denman, seconded by Councilmember Swofford, that the annual audit be accepted.

Motion passed 7 – 0.

ADJOURNMENT

There being no further business, the meeting was adjourned at 7:25 pm.

Minutes approved as submitted and/or corrected this 10 day of March
A. D., 2008



ATTEST:

CITY OF NASSAU BAY, TEXAS

Donald C. Matter
Mayor

Pat Jones, TRMC
City Secretary